

# **Minimum Standards for School-Age and Before or After-School Programs**

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## **Child Care Regulation**



**TEXAS**  
Health and Human  
Services

**Texas Health and Human  
Services Commission**

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# INTRODUCTION

## Minimum Standards

The minimum standards tell you (the child care operation permit holder) what requirements you, your employees, and your caregivers must follow.

These minimum standards:

- were developed by the Texas Health and Human Services Commission (HHSC) with the assistance of child-care operations, parents, stakeholders, and other experts in a variety of fields;
- reflect what the citizens of Texas consider reasonable and minimum; and
- meet the guidelines set forth in Chapter 42 of the Texas Human Resources Code (law) for what must be included in the minimum standards.

The Administrative Procedure and Texas Register Act requires that proposed minimum standards be published for public comment before they are adopted as rules. All members of the public, including providers, are encouraged to provide input when proposed minimum standards are published for public comment. The commission considers recommendations from interested persons or groups in formulating the final draft, which is filed as rules with the Secretary of State.

## Deficiencies

A deficiency is any failure to comply with a minimum standard, rule in Texas Administrative Code Chapter 745, law, specific term of the permit, or specific condition of probation or suspension.

## Weights

The minimum standards and rules are weighted based on a common understanding of the risk to children presented if the standard or rule is violated. The weights are high, medium-high, medium, medium-low, and low. The assigned weights do not change based on the scope or severity of an actual deficiency. Scope and severity are assessed by Child Care Regulation (CCR) staff, documented, and considered in conjunction with the weight when making CCR decisions. *You will see the weight is noted at the end of each standard or subsection in green. Only those minimum standards and rules which can be cited as a deficiency are weighted. For example, the minimum standard prohibiting physical discipline is weighed but standards that are definitions are not weighted.*

## Maintaining Compliance

It is essential that you, your employees, and your caregivers recognize four critical aspects of CCR's efforts to protect the children in care and to help operation employees and caregivers comply with the law, rules, and standards. The four aspects are:

- Inspection
- Technical assistance
- Investigations
- Caregiver's rights and entitlements

## The Inspection

Various aspects of regulated operations are evaluated for compliance with the minimum standards, rules, and law during regular inspections. The emphasis on these inspections is to prevent risk to children in care. The frequency of inspections will fluctuate depending on the type of permit and the operation's history of compliance with the minimum standards, rules, and law.

During any inspection, if we find that your operation does not meet minimum standard, rule, or law, the deficiencies are discussed with the person in charge at the time of the inspection. You will be given an opportunity to correct deficiencies within a specified period of time. If you have questions, concerns, or disagree with the citation, we encourage you to talk with us before we leave your operation. If your concerns are not resolved, you may request an administrative review.

## Technical Assistance

We are available to offer consultation to potential applicants, applicants, and permit holders regarding how to comply with minimum standards, rules, and laws. While we most often provide technical assistance during inspections and investigations, technical assistance can be requested at any time.

The Child Care Regulation section of the HHSC website has a Technical Assistance Library that allows you to view or download information about a variety of topics related to child care. You can view it by going to <https://hhs.texas.gov/doing-business-hhs/provider-portals/protective-services-providers/child-care-licensing> and selecting *Technical Assistance Library* from the Resources section.

A feature of the minimum standards publication is the Helpful Information boxes following certain minimum standards that provide additional guidance, clarification, resources, and/or best practices.

## Investigations

When a report alleges a violation of minimum standards, rule, or law, CCR must investigate the report, notify you of the investigation, and provide a written report to you of the investigation results within prescribed time frames.

When a report alleges abuse, neglect, or exploitation, the Department of Family and Protective Services must investigate the report, notify you of the investigation, and provide a written report to you of the investigation results within prescribed time frames.

# **Your Rights and Entitlements**

## **Waivers and Variances**

You may request a waiver if your operation is unable to comply with a standard for economic reasons. You may request a variance if your operation wishes to meet the intent of a standard in a way that is different from what the standard specifies. Waiver and variance requests are submitted through your online provider account or made in writing to your assigned CCR inspector.

## **Administrative Review**

If you disagree with a CCR decision or action, you may request an administrative review, during which you are given an opportunity to show compliance with applicable minimum standard, rule, law, action, permit restriction(s) and/or permit condition(s).

## **Appeals**

You may request an appeal hearing on a CCR decision to deny an application, revoke, suspend, or refuse to renew a permit or a condition placed on the permit after initial issuance.

Appeal hearings are conducted by the State Office of Administrative Hearings (SOAH).

## **For Further Information**

It is important that you, your employees, and your caregivers clearly understand the purpose of minimum standards and the reasons for CCR's inspections and investigations. Do not hesitate to ask us questions that will help you understand any aspect of our regulation. You may obtain information about minimum standards or procedures by calling your local CCR office or by visiting the HHSC Website at <https://hhs.texas.gov/doing-business-hhs/provider-portals/protective-services-providers/child-care-licensing>.



## Subchapter A, Purpose, Scope, and Definitions

### Division 1, Purpose

#### **§744.101. What is the purpose of this chapter?**

*Subchapter A, Purpose, Scope, and Definitions*

*Division 1, Purpose*

*April 2017*

The purpose of this chapter is to set forth the minimum standards that apply to operations exclusively providing before and after-school care services as defined by the Human Resources Code (HRC) §42.002(20) and school-age program services as defined by the HRC §42.002(21).

### Division 2, Scope

#### **§744.111. What types of operations do these minimum standards apply to?**

*Subchapter A, Purpose, Scope, and Definitions*

*Division 2, Scope*

*April 2017*

The minimum standards in this chapter apply to:

- (1) Day-care operations licensed to provide before and/or after-school care program services;
- (2) Day-care operations licensed to provide school-age program services;
- (3) Any unlicensed day-care operation that requires a license per Human Resources Code (HRC), Chapter 42, because the operation provides before and/or after-school program services; and
- (4) Any unlicensed day-care operation that requires a license per HRC, Chapter 42, because the operation provides school-age program services.

## **§744.113. Who is responsible for complying with these minimum standards?**

*Subchapter A, Purpose, Scope, and Definitions*

*Division 2, Scope*

*April 2017*

- (a) For a licensed before or after-school program or school-age program, the permit holder must ensure compliance with all minimum standards in this chapter at all times, with the exception of those minimum standards identified for specific types of child-care programs or activities that the operation does not offer. For example, if we license the operation to offer a before and after-school program, the operation does not have to comply with minimum standards that apply to nighttime-care programs; however, the operation must comply with all other minimum standards. [Medium-High]
- (b) For an unlicensed before or after-school program or school-age program that is subject to Licensing's regulation, the operation's director, owner, or person overseeing the operation or other controlling person who has the ability to influence or direct the operation's management, expenditures, or policies must ensure compliance with all minimum standards in this chapter at all times, with the exception of those minimum standards identified for specific types of child-care programs or activities that the unlicensed operation does not offer. [Medium-High]

## **Division 3, Definitions**

## **§744.121. What do certain pronouns mean when used in this chapter?**

*Subchapter A, Purpose, Scope, and Definitions*

*Division 3, Definitions*

*April 2017*

The following pronouns and words have the following meanings when used in this chapter:

- (1) I, my, you, and your – An applicant or permit holder, unless otherwise stated.
- (2) We, us, our, and Licensing – The Licensing Division of the Texas Department of Family and Protective Services (DFPS)

## **§744.123. What do certain words and terms mean when used in this chapter?**

*Subchapter A, Purpose, Scope, and Definitions*

*Division 3, Definitions*

*March 2021*

The words and terms used in this chapter have the meanings assigned to them under §745.21 of this title (relating to What do the following words and terms mean when used in this chapter?), unless another meaning is assigned in this section or another subchapter or unless the context clearly indicates otherwise. In addition, the following words and terms used in this chapter have the following meanings unless the context clearly indicates otherwise:

- (1) Activity space--An area or room used for children's activities, including areas separate from a group's classroom.
- (2) Administrative and clerical duties--Duties that involve the administration of an operation, such as bookkeeping, enrolling children, answering the telephone, and collecting fees.
- (3) Admission--The process of enrolling a child in an operation. The date of admission is the first day the child is physically present at the operation.
- (4) Adult--A person 18 years old and older.
- (5) Age-appropriate--Activities, equipment, materials, curriculum, and environment that are developmentally consistent with the chronological age of the child being served.
- (6) Attendance--When referring to a child's attendance, the physical presence of a child at the operation on any given day or at any given time, as distinct from the child's enrollment in the operation.
- (7) Before or after-school program--An operation that provides care before and after or before or after the customary school day and during school holidays, for at least two hours a day, three days a week, to children who attend pre-kindergarten through grade six.

- (8) Caregiver--A person who is counted in the child to caregiver ratio, whose duties include the supervision, guidance, and protection of a child. As used in this chapter, a caregiver must meet the minimum education, work experience, and training qualifications required under Subchapter D of this chapter (relating to Personnel). A caregiver is usually an employee, but may also be a substitute, volunteer, or contractor, as outlined in Subchapter D, Division 5 of this chapter (relating to Substitutes, Volunteers, and Contractors).
- (9) Certified Child-Care Professional Credential--A credential given by the National Early Childhood Program Accreditation to a person working directly with children. The credential is based on assessed competency in several areas of child care and child development.
- (10) Certified lifeguard--A person who has been trained in life saving and water safety by a qualified instructor, from a recognized organization that awards a certificate upon successful completion of the training. The certificate is not required to use the term "lifeguard," but you must be able to document that the certificate represents the type of training described.
- (11) CEUs--Continuing education units. A standard unit of measure for adult education and training activities. One CEU equals 10 clock hours of participation in an organized, continuing-education experience, under responsible, qualified direction and instruction. Although a person may obtain a CEU in many of the same settings as clock hours, the CEU provider must meet the criteria established by the International Association for Continuing Education and Training to be able to offer the CEU.
- (12) Child Development Associate Credential--A credential given by the Council for Professional Recognition to a person working directly with children. The credential is based on assessed competency in several areas of child care and child development.
- (13) Clock hour--An actual hour of documented:
- (A) Attendance at instructor-led training, such as seminars, workshops, conferences, early childhood classes, and other planned learning opportunities, provided by an individual or individuals, as specified in §744.1319(a) of this chapter (relating to Must the training for my caregivers and the director meet certain criteria?); or
  - (B) Self-instructional training that was created by an individual or individuals, as specified in §744.1319(a) and (b) of this chapter, or self-study training.
- (14) Corporal punishment--The infliction of physical pain on a child as a means of controlling behavior. This includes spanking, hitting, slapping, or thumping a child.
- (15) Days--Calendar days, unless otherwise stated.

- (16) Director--An adult you designate to have daily, on-site responsibility for your operation, including maintaining compliance with the minimum standards, rules, and laws. As this term is used in this chapter, a director may be an operation director, program director, or site director, unless the context clearly indicates otherwise.
- (17) Employee--A person an operation employs full-time or part-time to work for wages, salary, or other compensation. Employees are all of the operation staff, including caregivers, kitchen staff, office staff, maintenance staff, the assistant director, all directors, and the owner, if the owner is ever on site at the operation or transports a child.
- (18) Enrollment--The list of names or number of children who have been admitted to attend an operation for any given period of time; the number of children enrolled in an operation may vary from the number of children in attendance on any given day.
- (19) Entrap--A component or group of components on equipment that forms angles or openings that may trap a child's head by being too small to allow the child's body to pass through, or large enough for the child's body to pass through but too small to allow the child's head to pass through.
- (20) Field trips--Activities conducted away from the operation.
- (21) Food service--The preparation or serving of meals or snacks.
- (22) Frequent--More than two times in a 30-day period. Note: For the definition of "regularly or frequently present at an operation" as it applies to background checks, see §745.601 of this title (relating to What words must I know to understand this subchapter?).
- (23) Garbage--Waste food or items that when deteriorating cause offensive odors and attract rodents, insects, and other pests.
- (24) Governing body--A group of persons or officers of a corporation or other type of business entity having ultimate authority and responsibility for the operation.
- (25) Group activities--Activities that allow children to interact with other children in large or small groups. Group activities include storytelling, finger plays, show and tell, organized games, and singing.
- (26) Health-care professional--A licensed physician, a licensed advanced practice registered nurse (APRN), a licensed vocational nurse (LVN), a licensed registered nurse (RN), or other licensed medical personnel providing health care to the child within the scope of the license. This does not include physicians, nurses, or other medical personnel who are not licensed in the United States or in the country in which the person practices.

- (27) Health check--A visual or physical assessment of a child to identify potential concerns about a child's health, including signs or symptoms of illness and injury, in response to changes in the child's behavior since the last date of attendance.

(28) High school equivalent—

- (A) Documentation of a program recognized by the Texas Education Agency (TEA) or other public educational entity in another state, which offers similar training on reading, writing, and math skills taught at the high school level, such as a General Educational Development (GED) certificate; or
- (B) Confirmation that the person received home-schooling that adequately addressed basic competencies such as basic reading, writing, and math skills, which would otherwise have been documented by a high school diploma.

(29) Individual activities--Opportunities for the child to work independently or to be away from the group, but supervised.

(30) Inflatable--An amusement ride or device, consisting of air-filled structures designed for use by children, as specified by the manufacturer, which may include bouncing, climbing, sliding, or interactive play. They are made of flexible fabric, kept inflated by continuous air flow by one or more blowers, and rely upon air pressure to maintain their shape.

(31) Instructor-led training--Training characterized by the communication and interaction that takes place between the student and the instructor. The training must include an opportunity for the student to interact with the instructor to obtain clarifications and information beyond the scope of the training materials. For such an opportunity to exist, the instructor must communicate with the student in a timely fashion, including answering questions, providing feedback on skills practice, providing guidance or information on additional resources, and proactively interacting with students. Examples of this type of training include, classroom training, web-based on-line facilitated learning, video-conferencing, or other group learning experiences.

(32) Janitorial duties--Those duties that involve the cleaning and maintenance of the operation's building, rooms, furniture, etc. Cleaning and maintenance include such duties as cleansing carpets, washing cots, and sweeping, vacuuming, or mopping a restroom or a classroom. Sweeping up after an activity or mopping up a spill in a classroom that is immediately necessary for the children's safety is not considered a janitorial duty.

(33) Local sanitation official--A sanitation official designated by the city or county government.

(34) Multi-site operations--Two or more operations owned by the same person or entity, but the operations have separate permits. These operations may have centralized business functions, record keeping, and leadership.

(35) Natural environment--Settings that are natural or typical for all children of the same age without regard to ability or disability. For example, a natural environment for learning social skills is a play group of peers.

- (36) Nighttime care--Care given on a regular or frequent basis to children who are starting or continuing their night sleep, or to children who spend the night or part of the night at the operation between the hours of 9:00 p.m. and 6:00 a.m.
- (37) Operation--A person or entity offering a before or after-school program or school-age program that is subject to Licensing's regulation. An operation includes the building and the premises where the program is offered, any person involved in providing the program, and any equipment used in providing the program.
- (38) Operation director--A director at your operation who is not supervised by a program director. An operation that has an operation director cannot have a program director or a site director.
- (39) Owner--The sole proprietor, partnership, corporation, or other type of business entity who owns the operation.
- (40) Permit holder--The owner of the operation that is granted the permit.
- (41) Permit is no longer valid--For purposes of this chapter, a permit remains valid through the renewal process. A permit only becomes invalid when your:
- (A) Operation voluntarily closes;
  - (B) Operation must close because of an enforcement action in Chapter 745, Subchapter L of this title (relating to Enforcement Actions);
  - (C) Permit expires according to §745.481 of this title (relating to When does my permit expire?); or
  - (D) Operation must close because its permit is automatically revoked according to Texas Human Resources Code §§42.048(e), 42.052(j), or 42.054(f).
- (42) Physical activity (moderate)--Levels of activity for a child that are at intensities faster than a slow walk, but still allow the child to talk easily. Moderate physical activity increases heart rate and breathing rate.
- (43) Physical activity (vigorous)--Rhythmic, repetitive physical movement for a child that uses large muscle groups, causing the child to breathe rapidly and only enabling the child to speak in short phrases. Typically, the child's heart rate is substantially increased and the child is likely to be sweating while engaging in the vigorous physical activity.
- (44) Pre-kindergarten age child--A child who is three or four years of age before the beginning of the current school year.
- (45) Premises--Includes the operation, any lots on which the operation is located, any outside ground areas, any outside play areas, and the parking lot.
- (46) Program--The services and activities provided by an operation.
- (47) Program director--A director who oversees your program at multi-site operations and supervises a site director at each operation.



- (48) Regular--On a recurring, scheduled basis. Note: For the definition of "regularly or frequently present at an operation" as it applies to background checks, see §745.601 of this title.
- (49) Safety belt--A lap belt and any shoulder straps included as original equipment on or added to a vehicle.
- (50) Sanitize--The use of a product (usually a disinfecting solution) that is registered by the Environmental Protection Agency (EPA) which substantially reduces germs on inanimate objects to levels considered safe by public health requirements. Many bleach and hydrogen peroxide products are EPA-registered. You must follow the product's labelling instructions for sanitizing (paying attention to any instructions regarding contact time and toxicity on surfaces likely to be mouthed by children). For an EPA-registered sanitizing product or disinfecting solution that does not include labelling instructions for sanitizing (a bleach product, for example), you must follow these steps in order:
- (A) Washing with water and soap;
  - (B) Rinsing with clear water;
  - (C) Soaking in or spraying on a disinfecting solution for at least two minutes. Rinsing with cool water only those items that children are likely to place in their mouths; and
  - (D) Allowing the surface or item to air-dry.
- (51) School-age child--A child who is five years of age and older and is enrolled in or has completed kindergarten.
- (52) School-age program--An operation that provides supervision and recreation, skills instruction, or skills training for at least two hours a day and three days a week to children who attend pre-kindergarten through grade six. A school-age program operates before or after the customary school day and may also operate during school holidays, the summer period, or any other time when school is not in session.
- (53) Screen time activity--An activity during which a child views media content on a cell or mobile phone, tablet, computer, television, video, film, or DVD. Screen time activities do not include video chatting with a child's family or assistive and adaptive computer technology used by a child with special care needs on a consistent basis.
- (54) Self-instructional training--Training designed to be used by one individual working alone and at the individual's own pace to complete lessons or modules. Lessons or modules commonly include questions with clear right and wrong answers. An example of this type of training is web-based training. Self-study training is also a type of self-instructional training.

- (55) Self-study training--Non-standardized training where an individual reads written materials, watches a training video, or listens to a recording to obtain certain knowledge that is required for annual training. Self-study training is limited to three hours of annual training per year.
- (56) Site director--A director who has on-site responsibility at a specific operation, but who is supervised by a program director.
- (57) Special care needs--A child with special care needs is a child who has a chronic physical, developmental, behavioral, or emotional condition and who also requires assistance beyond that required by a child generally to perform tasks that are within the typical chronological range of development, including the movement of large or small muscles, learning, talking, communicating, self-help, social skills, emotional well-being, seeing, hearing, and breathing.
- (58) State or local fire marshal--A fire official designated by the city, county, or state government.
- (59) Universal precautions--An approach to infection control where all human blood and certain human bodily fluids are treated as if known to be infectious for HIV, HBV, and other blood-borne pathogens.
- (60) Water activities--Related to the use of swimming pools, splashing pools, wading pools, sprinkler play, or other bodies of water.

### Helpful Information

- Regarding paragraph (44), the beginning of the school year is based on the start date of the particular school district the child attends.
- Regarding paragraph (53), media content includes digital and live videos, animations, photos, games, internet searches, etc. Media content does not include electronic sign-in sheets, daily rosters, or schedules displayed on a smart board.

## Subchapter B, Administration and Communication

### Division 1, Permit Holder Responsibilities

#### §744.201. What are my responsibilities as the permit holder?

*Subchapter B, Administration and Communication*

*Division 1, Permit Holder Responsibilities*

*April 2021*

You are responsible for:

- (1) Developing and implementing your operational policies, which must comply with or exceed the minimum standards specified in this subchapter [High];
- (2) Developing written personnel policies, including job descriptions, job responsibilities and requirements, and making provisions for training [Medium-High];
- (3) Making provisions for training that comply with Division 4, Subchapter D of this chapter (relating to Professional Development) [Medium-High];
- (4) Designating an operation director, program director, or site director, as applicable, who meets minimum standard qualifications as specified in Subchapter D of this chapter (relating to Personnel) [Medium-High];
- (5) Reporting and ensuring your employees and volunteers report suspected abuse, neglect, or exploitation directly to the Texas Department of Family and Protective Services and may not delegate this responsibility, as required by the Texas Family Code §261.101 [Medium-High];
- (6) Ensuring all information related to background checks is kept confidential as required by the Human Resources Code §40.005(d) and (e) [Low];
- (7) Ensuring parents can have the opportunity to visit the operation any time during your hours of operation to observe their child, program activities, the building, the premises, and the equipment without having to secure prior approval [Medium];
- (8) Complying with the liability insurance requirements in this division [Medium];

- (9) Complying with the child-care licensing law found in Chapter 42 of the Human Resources Code, the applicable minimum standards, and other applicable rules in the Texas Administrative Code [Medium-High];
- (10) Reporting to Licensing any Department of Justice substantiated complaints related to Title III of the Americans with Disabilities Act, which applies to commercial public accommodations [Medium-High]; and
- (11) Ensuring the total number of children in care at the operation or away from the operation, such as during a field trip, never exceeds the licensed capacity of the operation. [Medium-High]

### Helpful Information

- Children are at risk when adults responsible for them do not have clearly delineated roles and responsibilities, which can be identified in job descriptions and job responsibilities.
- Disclosure of confidential background check information is a Class A misdemeanor. Therefore, you may want to keep background check information in a location separate from other staff records. You may choose to keep the information in a locked space. However, the information must be accessible during an inspection.

## §744.203. What are the liability insurance requirements?

*Subchapter B, Administration and Communication*

*Division 1, Permit Holder Responsibilities*

*April 2021*

Unless you have an acceptable reason not to have the insurance, you must:

- (1) Maintain liability insurance coverage in the amount of \$300,000 for each occurrence of negligence that covers injury to a child while the child is on your premises or in your care [Medium]; and
- (2) Provide proof of coverage to Licensing each year by the anniversary date of the issuance of your permit. [Medium]

## **§744.205. What are acceptable reasons not to have liability insurance?**

*Subchapter B, Administration and Communication*

*Division 1, Permit Holder Responsibilities*

*March 2021*

- (a) You do not have to have liability insurance that meets the requirements of §744.203 of this division (relating to What are the liability insurance requirements?) if you cannot carry insurance because:
  - (1) Of financial reasons;
  - (2) You are unable to locate an underwriter who is willing to issue a policy to the operation; or
  - (3) You have already exhausted the limits of a policy that met the requirements.
- (b) If you cannot carry liability insurance or stop carrying the insurance because of a reason listed in subsection (a) of this section, you must send written notification to Licensing by the anniversary date of the issuance of your permit. Your notification must include the reason that you cannot carry the insurance. [Medium]

## **§744.207. When must I notify parents that I do not carry liability insurance?**

*Subchapter B, Administration and Communication*

*Division 1, Permit Holder Responsibilities*

*March 2021*

- (a) If you do not carry liability insurance that meets the requirements of §744.203 of this division (relating to What are the liability insurance requirements?), then you must notify the parent of each child in your care in writing that you do not carry liability insurance before you admit the child into your care. [Medium-High]
- (b) If you previously carried the liability insurance and subsequently stop carrying the liability insurance, then you must notify the parent of each child in your care in writing that you do not carry the insurance, within 14 days after you stop carrying it. [Medium-High]

(c) You may use Form 2962, *Verification of Liability Insurance*, located on the Licensing provider website, to notify parents. Regardless of whether you use this form, you must be able to demonstrate that you provided written notice to the parents of each child in your care, as required in §744.801(5) of this chapter (relating to What records must I keep at my operation?).

### Helpful Information

It is important that parents both understand and acknowledge whether your operation carries liability insurance. Possible means of communicating this requirement include:

- Using a form specific to liability insurance that requires a parent signature that you maintain in the child's file;
- Including a statement or addendum about liability insurance in your operational policies or parent handbook, and maintain in the child's file a document with a parent signature or initials specifically acknowledging the liability insurance information; or
- Maintaining a copy of any electronic communication sent to a parent regarding liability insurance, including the date and address to which the communication was sent.

## Division 2, Required Notifications

### §744.301. What changes regarding my operation must I notify Licensing about before making the change?

*Subchapter B, Administration and Communication*

*Division 2, Required Notifications*

*April 2017*

You must notify us in writing before:

- (1) Changing the address or location of the operation [Medium];
- (2) Adding to or reducing indoor or outdoor space [Medium];
- (3) Reducing the number of toilets or sinks [Medium];
- (4) Adding a swimming pool or other permanent body of water [Medium-High];
- (5) Changing the age range of children to be cared for [Medium];
- (6) Changing the hours, days, or months of operation [Medium];

- (7) Offering new services, relating to minimum standards found in this chapter, such as nighttime care, transportation, or field trips [Medium];
- (8) Planned closure of five consecutive days or more, during designated hours of operation, when the operation is not caring for children, with the exception of nationally recognized holidays [Medium];
- (9) Going out of business [Low]; or
- (10) There is a change in the ownership of an operation as specified in §745.437 of this title (relating to What is a change in the ownership of an operation?). [Medium]

### Helpful Information

- As events occur or changes are made to the program, health and safety conditions may change. Licensing may need to verify that minimum standard rules related to the changes are in compliance to ensure the continuing safety of children in care.
- Items (2) - (5) require an amended permit before you may provide new services or change your services.

## **§744.303. What changes must I notify Licensing of regarding the operation's designee, governing body, and directors?**

*Subchapter B, Administration and Communication*

*Division 2, Required Notifications*

*April 2017*

You must notify us in writing, no later than five days after a change is made, regarding:

- (1) The designee of an operation that is not a sole proprietorship. The designee for a sole proprietorship is the sole proprietor [Medium-Low];
- (2) The board chair for a corporate facility or other executive officer of the governing body [Low];
- (3) The address of the operation's designee or governing body [Low]; and
- (4) A director. [Medium-High]

### **Helpful Information**

- Governing body changes affect Licensing's ability to communicate in a timely manner with those who have ultimate responsibility for the program.
- It is important that DFPS know, in a timely manner, who has been designated as director in order to ensure that qualifications are met and the operation of the program is not at risk.

## **§744.305. What other situations require notification to Licensing?**

*Subchapter B, Administration and Communication*

*Division 2, Required Notifications*

*April 2021*

- (a) You must notify us as soon as possible, but no later than two days after:
- (1) Any occurrence that renders all or part of your operation unsafe or unsanitary for a child [Medium-High];
  - (2) Injury to a child in your care that requires medical treatment by a health-care professional or hospitalization [Medium-High];



- (3) A child in your care shows signs or symptoms of an illness that requires hospitalization; [Medium-High];
  - (4) You become aware that an employee or child in your care contracts an illness deemed notifiable by the Department of State Health Services, as specified in 25 TAC Chapter 97, Subchapter A (relating to Control of Communicable Diseases) [Medium-High];
  - (5) A person for whom you are required to request a background check, under Chapter 745, Subchapter F of this title (relating to Background Checks), is arrested or charged with a crime [Medium-High]; and
  - (6) The occurrence of any other situation that places a child at risk, such as forgetting a child in an operation vehicle or on the playground or not preventing a child from wandering away from the operation unsupervised [High]; and
  - (7) A new individual becomes a controlling person at your operation, or an individual that was previously a controlling person ceases to be a controlling person at your operation. [Medium-High]
- (b) You must notify us immediately if a child dies while in your care. [High]

### Helpful Information

- Regarding paragraph (a)(1), examples of occurrences that may render an operation unsafe or unsanitary include sewer backups, flood, fire or storm damage, or the lack of running water.
- Regarding paragraph (a)(3), this notification applies to situations where the operation sends a child to the hospital for an illness. For more information on how to respond when a child in care becomes ill and requires hospitalization, see §744.2575(b).
- Notifications to Licensing may be made:
  - Online 24 hours a day at [http://www.dfps.state.tx.us/Contact\\_Us/report\\_abuse.asp](http://www.dfps.state.tx.us/Contact_Us/report_abuse.asp);
  - By phone 24 hours a day to the Texas Abuse and Neglect Hotline 1-800-252-5400; or
  - By speaking to a Licensing employee during business hours at the local office.
  - Phone numbers for the local offices can be found at <https://hhs.texas.gov/services/safety/child-care/contact-child-care-licensing>

## **§744.307. What emergency or medical situations must I notify parents about?**

*Subchapter B, Administration and Communication*

*Division 2, Required Notifications*

*April 2021*

- (a) You must notify the parent of a child immediately if there is an allegation that the child has been abused, neglected, or exploited, as defined in Texas Family Code §261.001, while in your care. [High];
- (b) After you ensure the safety of the child, you must notify the parent of the child immediately after the child:
  - (1) Is injured and the injury requires medical treatment by a health-care professional or hospitalization [Medium-High];
  - (2) Shows signs or symptoms of an illness that requires hospitalization [Medium-High];
  - (3) Has been involved in any situation that placed the child at risk. For example, a caregiver forgetting the child in an operation vehicle or on the playground or failing to prevent the child from wandering away from the operation unsupervised [Medium-High]; or
  - (4) Has been involved in any situation that renders the operation unsafe, such as a fire, flood, or damage to the operation as a result of severe weather. [Medium-High]
- (c) You must notify the parent of less serious injuries when the parent picks the child up from the operation. Less serious injuries include minor cuts, scratches, and contusions requiring first-aid treatment by employees. [Medium]
- (d) You must provide written notice to the parent of each child attending the operation within 48 hours of becoming aware that a child in your care or an employee has contracted a communicable disease deemed notifiable by the Department of State Health Services, as specified in 25 TAC Chapter 97, Subchapter A (relating to Control of Communicable Diseases). [Medium-High]
- (e) You must provide written notice to the parent of each child in a group within 48 hours when there is an outbreak of lice or other infestation in the group. You must either post this notice in a prominent and publicly accessible place where parents can easily view it or send an individual note to each parent. [Medium-Low]

## Helpful Information

- Communication between caregivers and parents is essential to both the safe and healthy operation of the program and the parents' ability to assess the care their children are receiving.
- Regarding paragraph (a), you must notify the parent as soon as you have knowledge of the allegation, including when someone makes an allegation directly to you, when you make a report to DFPS, or when DFPS notifies you of an allegation.
- Regarding paragraph (b)(1), please see §744.2577 for additional requirements for how operations must respond to an injury that requires immediate medical treatment by a health-care professional.
- Regarding paragraph (b)(2), please see §744.2575 for additional requirements for how operations must respond when a child becomes ill while in care.

### **§744.309. What are the notification requirements when Licensing finds my operation deficient in the standard related to the abuse, neglect, or exploitation of a child?**

*Subchapter B, Administration and Communication*

*Division 2, Required Notifications*

*April 2021*

You must notify the parent of each child attending your child-care operation of a deficiency in the abuse, neglect, or exploitation standard in §744.1201(4) of this chapter (relating to What general responsibilities do my employees have?). [Medium-High]

## **§744.311. How must I notify parents of an abuse, neglect, or exploitation deficiency?**

*Subchapter B, Administration and Communication*

*Division 2, Required Notifications*

*April 2021*

Within five days after you receive notification of a deficiency described in §744.309 of this division (relating to What are the notification requirements when Licensing finds my operation deficient in the standard related to the abuse, neglect, or exploitation of a child?), you must use *Form 7266, Notification of Abuse/Neglect/Exploitation Deficiency*, located on the Licensing provider website, to notify the parents of each child attending your child-care operation at the time of the notification, including a child who may not have been in care on the day of the actual incident. [Medium-High]

## Division 3, Required Postings

### §744.401. What items must I post at my operation at all times?

*Subchapter B, Administration and Communication*

*Division 3, Required Postings*

*April 2017*

You must post the following items:

- (1) Your license [Medium];
- (2) The letter or form from the most recent Licensing inspection or investigation [Medium];
- (3) The Licensing notice *Keeping Children Safe* [Medium];
- (4) Your emergency evacuation and relocation diagram as specified in §744.3561 of this title (relating to Must I have an emergency evacuation and relocation diagram?) [Medium-High];
- (5) The activity plan for each group of children, if required by §744.2005 of this title (relating to Must caregivers have written activity plans?) [Medium];
- (6) The daily menu, if applicable, including all snacks and meals prepared or served by the operation [Medium];
- (7) The *Licensing Parent Notification Poster* [Medium-Low];
- (8) Telephone numbers specified in §744.405 of this title (relating to What telephone numbers must I post and where must I post them?) [Low];
- (9) A list of each child's food allergies that require an emergency plan, as specified in §744.2669 of this title (relating to When must I have a food allergy emergency plan for a child?) [Medium-High]; and
- (10) Any other Licensing notices with specific instructions to post the notice. [Medium]

#### Helpful Information

Posting this information is an important part of communication with parents. It provides parents the opportunity to monitor the care they have selected for their child and to make informed decisions as consumers of child care.

## **§744.403. When and where must these items be posted?**

*Subchapter B, Administration and Communication*

*Division 3, Required Postings*

*September 2016*

- (a) Unless otherwise specified, the items specified in §744.401 of this title (relating to What items must I post at my operation at all times?) must be available by posting or placing in a binder, in a prominent and publicly accessible place where employees, parents, and others may easily view them at all times. [Medium]
- (b) For a list of each child's food allergies that require an emergency plan [Medium-High]:
  - (1) You must post the list during all hours of operation where you prepare food and in each room where the child may spend time;
  - (2) The posting must be in a place where employees may easily view the list, and if the a parent requests it, you must maintain privacy for the child (for example, a clipboard hung on the wall with a cover sheet over the list); and
  - (3) You must ensure that all caregivers and employees who prepare and serve food are aware of each child's food allergies.

## §744.405. What telephone numbers must I post and where must I post them?

*Subchapter B, Administration and Communication*

*Division 3, Required Postings*

*April 2017*

(a) You must post in a prominent place the following telephone numbers [Medium]:

(1) 911 or, if 911 is not available in your area, you must post the telephone numbers for [Medium]:

- (A) Emergency medical services;
- (B) Law enforcement; and
- (C) Fire department;

(2) Poison control [Medium];

(3) The Texas Abuse and Neglect Hotline (1-800-252-5400) [Medium];

(4) The local Licensing office telephone number [Medium]; and

(5) The operation's telephone number, name, and address. [Medium]

(b) If you use cellular phone service at your operation, you must ensure dialing 911 directs emergency personnel to the address or location of your operation.

[Medium]

### Helpful Information

- Readily available phone numbers help to ensure prompt response/action in an emergency.
- For the nearest Licensing office telephone number go to <https://hhs.texas.gov/services/safety/child-care/contact-child-care-licensing>
- If you call 911 from a cellular phone you should remember the following:
- Tell the emergency operator the location of the emergency right away.
- Give the emergency operator your cellular phone number so that, if the call gets disconnected, the operator can call you back.
- If your cellular phone is not "initialized" (meaning you do not have a contract for service with a wireless service provider), and your emergency call gets disconnected, you must call the emergency operator back because the operator does not have your telephone number and cannot contact you.





## Division 4, Operational Policies

### §744.501. What written operational policies must I have?

*Subchapter B, Administration and Communication*

*Division 4, Operational Policies*

*March 2021*

You must develop written operational policies and procedures that at a minimum address each of the following [High]:

- (1) Hours, days, and months of operation [Medium];
- (2) Procedures for the release of children [Medium];
- (3) Illness and exclusion criteria [Medium];
- (4) Procedures for dispensing medication or a statement that medication is not dispensed [Medium];
- (5) Procedures for handling medical emergencies [Medium];
- (6) Procedures for parental notifications [Medium];
- (7) Discipline and guidance that is consistent with Subchapter G of this chapter (relating to Discipline and Guidance). A copy of Subchapter G may be used for your discipline and guidance policy, unless you use disciplinary and training measures specific to a skills-based program, as specified in §744.2109 of this chapter (relating to May I use disciplinary measures that are fundamental to teaching a skill, talent, ability, expertise, or proficiency?) [Medium-High];
- (8) Suspension and expulsion of children [Medium-High];
- (9) Meals and food service practices [Medium];
- (10) Immunization requirements for children, including tuberculosis screening and testing if required by your regional Texas Department of State Health Services or local health authority [Medium];
- (11) Enrollment procedures, including how and when parents will be notified of policy changes [Medium];
- (12) Transportation, if applicable [Medium];
- (13) Water activities, if applicable [Medium];
- (14) Field trips, if applicable [Medium];
- (15) Animals, if applicable [Medium];

- (16) Procedures for providing and applying, as needed, insect repellent and sunscreen, including what types will be used, if applicable [Medium];
- (17) Procedures for parents to review and discuss with the director any questions or concerns about the policies and procedures of the operation [Medium];
- (18) Procedures for parents to visit the operation at any time during your hours of operation to observe their child, program activities, the building, the premises, and equipment without having to secure prior approval [Medium];
- (19) Procedures for parents to participate in the operation's activities [Medium-Low];
- (20) Procedures for parents to review a copy of the operation's most recent Licensing inspection report and how the parent may access the minimum standards online [Medium];
- (21) Instructions on how a parent may contact the local Licensing office, access the Texas Abuse and Neglect Hotline, and access the HHSC website [Medium];
- (22) Emergency preparedness plan [High];
- (23) Procedures for conducting health checks, if applicable [Medium]; and
- (24) Information on vaccine-preventable diseases for employees, unless your operation is in the home of the permit holder, the director, or a caregiver. The policy must address the requirements outlined in §744.2581 of this chapter (relating to What must a policy for protecting children from vaccine-preventable diseases include?). [Medium]

### Helpful Information

Regarding paragraph (8), it is helpful to have a policy clarifying the steps that can be taken to prevent suspension or expulsion is very helpful to parents. However, a director may always retain the right to dis-enroll a child if it is in the best interest of the child or other children at the operation. Additional information regarding a policy for suspension and expulsion is available in the Licensing Technical Assistance Library.

## **§744.503. Must I provide parents with a copy of my operational policies?**

*Subchapter B, Administration and Communication*

*Division 4, Operational Policies*

*April 2017*

Yes. On or before the date of admission, the parents must sign a child-care enrollment agreement or other similar documents, which must include at least the operational policies listed in this division. You must keep this signed document in the child's record or at least one for each family, if siblings are enrolled at the same time. [Medium]

### **Helpful Information**

- Sharing clearly written policies about your program's day-to-day operation will help parents understand what type of service their children will receive, and may help to avoid later misunderstandings and complaints.
- Operational policies may go beyond minimum standards, but may not conflict.

## **§744.505. What must I do when I change an operational policy or an item in the child-care enrollment agreement?**

*Subchapter B, Administration and Communication*

*Division 4, Operational Policies*

*April 2017*

When you change an operational policy or your child-care enrollment agreement, you must notify:

- (1) Your employees of any changes [Medium]; and
- (2) The parents in writing of any changes. At least one copy of the updated operational policies or child-care enrollment agreement must be signed and dated for each family and kept in the child's record. [Medium]

## Subchapter C, Record Keeping

### Division 1, Records of Children

#### **§744.601. Who has the right to access children's records?**

*Subchapter C, Record Keeping*

*Division 1, Records of Children*

*September 2010*

- (a) All children's records must be immediately accessible to caregivers during your hours of operation for use in an emergency. [Medium]
- (b) Parents have the right to access their own child's record during a parent conference with the caregiver or director. [Medium]
- (c) All children's records are subject to review and/or reproduction by Licensing upon request during your hours of operation. [Medium]

#### **§744.603. What records must I have for children in my care and how long must I keep them?**

*Subchapter C, Record Keeping*

*Division 1, Records of Children*

*April 2017*

- (a) You must maintain the following records for each child enrolled in your operation [Medium]:
  - (1) A child-care enrollment agreement specified in §744.503 of this title (relating to Must I provide parents with a copy of my operational policies?) [Medium];
  - (2) Admission information as specified in §744.605 of this title (relating to What admission information must I obtain for each child?) [Medium];
  - (3) Immunization records [Medium];
  - (4) Tuberculosis screening and testing information, if required by your regional Texas Department of State Health Services or local health authority [Low];
  - (5) Licensing Incident/Illness Report form, if applicable [Medium];

- (6) A daily tracking system for when a child's care begins and ends as specified in §744.627 of this title (relating to Must I have a system for signing children in and out of my care?) [Medium-High];
  - (7) Medication administration records, if applicable [Medium]; and
  - (8) A copy of any health-care professional recommendations or orders for providing specialized medical assistance to the child. In some instances, minimum standards allow for a deviation from a minimum standard with written documentation from a health-care professional. You must also maintain this written documentation in the child's record. [Medium]
- (b) These records must at a minimum be kept at the operation and be available during your hours of operation for the following periods of time [Low]:
- (1) Medication administration records for three months after administering the medication;
  - (2) Health-care professional recommendations or orders for three months after the health-care professional has indicated that the specialized medical assistance is no longer needed; and
  - (3) All other records noted in subsection (a) of this section for three months after the child's last day in care.

## **§744.605. What admission information must I obtain for each child?**

*Subchapter C, Record Keeping*

*Division 1, Records of Children*

*April 2017*

You must obtain at least the following information before admitting a child to the operation:

- (1) The child's name and birth date [Medium-High];
- (2) The child's home address and telephone number [Medium-High];
- (3) Date of the child's admission to the operation [Medium-Low];
- (4) Name and address of parent(s) [Medium-High];
- (5) Telephone numbers at which parent(s) can be reached while the child is in care [Medium];
- (6) Name, address, and telephone number of another responsible individual (friend or relative) who should be contacted in an emergency when the parent cannot be reached [Medium-High];
- (7) Names and telephone numbers of persons other than a parent to whom the child may be released [High];
- (8) Permission for transportation, if provided, including any authorized pick-up and drop-off locations [Low];
- (9) Permission for field trips, if provided [Low];
- (10) Permission for participation in water activities, if provided [Low];
- (11) Name, address, and telephone number of the child's physician or an emergency-care facility [Medium-High];
- (12) Authorization to obtain emergency medical care and to transport the child for emergency medical treatment [Medium-High];
- (13) A statement of the child's special problems or special care needs. This includes, but is not limited to, allergies, existing illness, previous serious illness and injuries, hospitalizations during the past 12 months, and any medications prescribed for continuous, long-term use [Medium-High];
- (14) The name and telephone number of the school that a school-age child attends, unless the operation is located at the child's school [Medium];
- (15) Permission for a school-age child to ride a bus, walk to or from school or home, or to be released to the care of a sibling under 18 years old, if applicable [Medium]; and
- (16) A completed food allergy emergency plan for the child, if applicable. [Medium-High]

### Helpful Information

- The term “Parent” is defined in 40 TAC, Chapter 745, Subchapter A, Precedence and Definitions, which is included in this publication in Appendix I.
- Regarding subsections (6) and (7) Licensing expects the parent to list someone other than themselves as an emergency contact and authorized to pick up their child from care. If the parent chooses to not designate anyone else they will need to indicate this in writing.

## **§744.607. Must the child’s parent sign the admission information?**

*Subchapter C, Record Keeping*

*Division 1, Records of Children*

*September 2010*

Yes. The parent must sign the admission information before you admit the child to your care. [Low]

## **§744.609. Must I update the admission information?**

*Subchapter C, Record Keeping*

*Division 1, Records of Children*

*September 2010*

- (a) Yes. You must develop a procedure for regularly updating the admission information, including information on special care needs. [Low]
- (b) The parent must sign and date the updated information. You may use a new form or have the parent initial and date amendments to a previously signed form. You must keep the updated information in the child’s record. [Low]

### Helpful Information

The child-care operation needs to know where to contact parents and needs to be aware of any changes in care required by the child.

- Routine updating of records facilitates communication between the parent and the child-care operation.

## Helpful Information

- It also ensures that accurate information is available during an emergency so that the child's needs can be met.

### **§744.611. Must I have a health statement for children in my care?**

*Subchapter C, Record Keeping*

*Division 1, Records of Children*

*September 2010*

No. Since your operation exclusively serves children that attend pre-kindergarten or school, you are not required to have a health statement for children in your care.

### **§744.613. What immunizations must a child in my care have?**

*Subchapter C, Record Keeping*

*Division 1, Records of Children*

*April 2017*

- (a) Each child enrolled or admitted to your operation must meet and continue to meet applicable immunization requirements specified by the Texas Department of State Health Services (DSHS). This requirement applies to all children in care through 14 years of age. [High]
- (b) You must maintain current immunization records for each child in your care, including any immunization exemptions or exceptions. [Medium-High]
- (c) All immunizations required for the child's age must be completed by the date of admission, unless [Medium-High]:
  - (1) The child is exempt or excepted from an immunization, and you verify the exemption or exception by the date of admission; or
  - (2) The child is homeless or in foster care and is provisionally admitted for up to 30 days because evidence of immunization is not available. You should immediately refer the child to an appropriate health-care professional to obtain the required immunizations. The DSHS rule at 25 TAC §97.66 (relating to Provisional Enrollment for Students) establishes the guidelines for a provisional enrollment.



### Helpful Information

The current immunization requirements can be found at <http://www.immunizetexas.com>. For children 44 months through 18 years click on "School Requirements", click on "Main Page", to the right of the page click on "Schools", and click on "[current year] Texas Minimum State Vaccine Requirements for Students Grades K-12".

## **§744.615. What exemptions or exceptions are there concerning immunization requirements?**

*Subchapter C, Record Keeping*

*Division 1, Records of Children*

*April 2017*

- (a) A child may be exempt from immunization requirements for a medical reason or reason of conscience, including a religious belief. To claim an exemption, the person applying for the child's admission must meet criteria specified by the Department of State Health Services (DSHS) rule at 25 TAC §97.62 (relating to Exclusions from Compliance).
- (b) For some diseases, a child who previously had a disease and is accordingly naturally immune from it may qualify for an exception to the immunization requirements for the disease. To claim this exception, the person applying for the child's admission must meet the criteria specified by the DSHS rule at 25 TAC §97.65 (relating to Exceptions to Immunization Requirements).

### Helpful Information

You can find more information regarding the Department of State Health Services' exemptions at <http://www.dshs.state.tx.us/immunize/default.shtm>, click on "School Requirements", click on "Main Page", and to the right of the page click on "Exclusions from Immunization Requirements".

## **§744.623. What documentation is acceptable for an immunization record?**

*Subchapter C, Record Keeping*

*Division 1, Records of Children*

*April 2017*

Acceptable documentation includes:

- (1) A signed statement from the child's parent that the child's immunization record is current and on file at the pre-kindergarten or school that the child attends. The statement must be dated and include the name, address, and telephone number of the pre-kindergarten or school listed in the statement [Medium];
- (2) An official immunization record generated from a state or local health authority, including a record from another state. Examples include a record from the Texas Immunization Registry, a copy of the current immunization record that is on file at the pre-kindergarten or school that the child attends, or the health passport for a child in the conservatorship of DFPS. [Medium] The record must include:
  - (A) The child's name and date of birth [Medium-Low];
  - (B) The type of vaccine and number of doses [Medium-Low]; and
  - (C) The month, day, and year the child received each vaccination [Medium-Low]; or
- (3) An official immunization record or photocopy. An example includes a record from a doctor's office or a pharmacy. The record must include [Medium]:
  - (A) The child's name and date of birth [Medium-Low];
  - (B) The type of vaccine and number of doses [Medium-Low];
  - (C) The month, day, and year the child received each vaccination [Medium-Low]; and
  - (D) The signature (including a rubber stamp or electronic signature) of the health-care professional who administered the vaccine, or another health-care professional's documentation of the immunization as long as the name and address of the health-care professional that administered the vaccine is documented. [Medium-Low]

## **§744.625. Must children in my care have a tuberculosis (TB) examination?**

*Subchapter C, Record Keeping*

*Division 1, Records of Children*

*September 2010*

Requirements for tuberculosis screening and testing vary across the state. If the Texas Department of State Health Services (DSHS) or local health authority requires tuberculosis testing for children in your operation, then you must have documentation to indicate that each child in your care is free of active tuberculosis. Documentation of a TB screening is not required to be on file. If you are unsure of the requirements for your area, contact the TB manager at the DSHS regional office nearest you. [Low]

## **§744.627. Must I have a system for signing children in and out of my care?**

*Subchapter C, Record Keeping*

*Division 1, Records of Children*

*April 2017*

- (a) Yes. You must have a tracking system for each child coming and going from your operation throughout the day. This tracking system must include the name of each child; the date, time of arrival, and time of departure; and the employee or parent's initials or other unique identifier. [Medium-High]
- (b) All caregivers must have access to the tracking system to determine which children are in care during their work shift, changes in caregivers, and emergency evacuations. [Medium-High]

### **Helpful Information**

The tracking system may be a paper sign-in and sign-out log or an automated system. If using an automated system parents must have a unique identifier assigned.

## Division 2, Records of Accidents and Incidents

### §744.701. What written records must I keep of accidents and incidents that occur at my operation?

*Subchapter C, Record Keeping*

*Division 2, Records of Accidents and Incidents*

*April 2021*

You must record the following information on the Licensing *Incident/Illness Report* Form 7239 or another form that contains at least the same information:

- (1) An injury to a child in care that required medical treatment by a health-care professional or hospitalization; [Medium]; and
- (2) An illness that required the hospitalization of a child in care [Medium];
- (3) An incident of a child in care or employee contracting a communicable disease deemed notifiable by the Texas Department of State Health Services as specified in 25 TAC Chapter 97, Subchapter A (relating to Control of Communicable Diseases) [Medium]; and
- (4) Any other situation that placed a child at risk, such as forgetting a child in an operation's vehicle or not preventing a child from wandering away from the operation unsupervised. [Medium]

#### Helpful Information

- The *Licensing Incident/Illness Report* form ensures that parents have been notified of serious incidents and illnesses that impact or may impact the health and safety their child. This includes incidents that directly involve their child, such as a serious injury, and those that have the potential to affect their child, such as another child in care or an employee contracting a communicable disease. For more information regarding notifying parents about emergency and medical situations, see §744.307.
- You may obtain a copy of Licensing's *Incident/Illness Report* form on the Licensing provider website at: <https://hhs.texas.gov/laws-regulations/handbooks/cclpph/forms>

### §744.705. Must someone from my operation sign the *Incident/Illness Report* form?

*Subchapter C, Record Keeping*

*Division 2, Records of Accidents and Incidents*

*April 2017*

Yes. After the caregiver completes the form, the director of the operation or, if the director is not available, the person designated to be in charge of the operation must sign and date the completed report. [Low]

## **§744.707. Must I share a copy of the *Incident/Illness Report* form with the child's parent?**

*Subchapter C, Record Keeping*

*Division 2, Records of Accidents and Incidents*

*September 2010*

Yes. You must share a copy of the report with the child's parent and obtain the parent's signature on the report indicating the parent has reviewed it or received a copy of the report within 48 hours of when the incident occurred. [Medium-High]

### **Helpful Information**

Requiring a parent to sign the report verifies the parent was informed of serious situations, which affect the health or safety of their child.

## **§744.709. Where must I file the *Incident/Illness Report* form and how long must I keep it?**

*Subchapter C, Record Keeping*

*Division 2, Records of Accidents and Incidents*

*September 2010*

You must keep the *Incident/Illness Report* form with the child's record at the operation while the child is in care, and for at least three months after the child's last day in care. [Low]

## **Division 3, Records That Must be Kept on File at the Operation**

### **§744.801. What records must I keep at my operation?**

*Subchapter C, Record Keeping*

*Division 3, Records That Must be Kept on File at the Operation*

*April 2021*

You must maintain and make the following records available for our review upon request, during your hours of operation. Paragraphs (13), (14), and (15) of this section are optional, but if provided will allow Licensing to avoid duplicating the evaluation of standards that have been evaluated by another state agency within the past year:

- (1) Children's records, as specified in Division 1 of this subchapter (relating to Records of Children) [Medium];
- (2) Personnel and training records according to Division 4 of this subchapter (relating to Personnel Records) [Medium];
- (3) Licensing Director's Certificate [Medium];
- (4) Attendance records or time sheets listing all days and hours worked for each employee [Medium];
- (5) Proof of current liability insurance coverage or, if applicable, that you have provided written notice to the parent of each child that you do not carry the insurance [Medium];
- (6) Medication records, if applicable [Medium-High];
- (7) Playground maintenance checklists [Medium];
- (8) Pet vaccination records, if applicable [Medium];
- (9) Safety documentation for emergency drills, fire extinguishers, and smoke detectors [Medium];
- (10) Most recent fire inspection report, including any written approval from the fire marshal to provide care above or below ground level, if applicable [Medium];
- (11) Most recent sanitation inspection report [Medium];
- (12) Most recent gas inspection report, if applicable [Medium];
- (13) Most recent Texas Department of State Health Services immunization compliance review form, if applicable [Medium-Low];
- (14) Most recent Texas Department of Agriculture Child and Adult Care Food Program (CACFP) report, if applicable [Medium-Low];
- (15) Most recent local workforce board Child-Care Services contractor inspection report, if applicable [Low];
- (16) Record of pest extermination, if applicable [Medium-Low]; and
- (17) A daily tracking system for when a child's care begins and ends, as specified in §744.627 of this subchapter (relating to Must I have a system for signing children in and out of my care?) [Medium-Low]; and
- (18) Proof that you have notified parents in writing of deficiencies in abuse, neglect, or exploitation, as specified in §744.309 of this chapter (relating to What are the notification requirements when Licensing finds my operation deficient in the standard related to the abuse, neglect, or exploitation of a child?) and in

§744.311 of this chapter (relating to How must I notify parents of an abuse, neglect, or exploitation deficiency?). [Medium-High]

### Helpful Information

- Regarding paragraph (5), attendance records must also be kept on all substitutes, volunteers, and contractors that are regularly or frequently at the child-care center or counted in the child/caregiver ratio. For more information see §744.1401 of this chapter (relating to What minimum standards must substitutes, volunteers, or persons under contract with my operation comply with?).
- Regarding paragraph (18), you may maintain the documentation in a manner that is consistent with your policies for record keeping, as long as you can verify that you have notified each parent as required. Possible ways to maintain proof of notification include:
  - Keeping a copy of the notification in each child's individual file;
  - Keeping a single file of all notifications, with a list of the parents whom you notified attached to each notification form; or
  - Maintaining a copy of any notification sent to a parent electronically, including the date and address to which you sent the notification.

## **§744.803. How long must I keep records at my operation?**

*Subchapter C, Record Keeping*

*Division 3, Records That Must be Kept on File at the Operation*

*April 2017*

- (a) If you are required to post or keep a record in this chapter, you must keep the record at your operation for at least three months from the date the record was created unless otherwise stated. [Medium-Low]
- (b) You must keep training records for the current director and caregivers for at least the current and last full training year. [Medium-Low]

## **§744.805. May I keep electronic records or a combination of paper and electronic records?**

*Subchapter C, Record Keeping*

*Division 3, Records That Must be Kept on File at the Operation*



*September 2010*

Yes, you may keep electronic records or a combination of paper and electronic records.

- (1) If you keep a combination of paper and electronic records, you must develop procedures that address what must be in the external paper file and what can be in the electronic file [Medium];
- (2) Children's records must be accessible to all caregivers during their work shift, changes in caregivers, and emergency evacuations [Medium]; and
- (3) All records must be available during your hours of operation for review by Licensing upon request. [Medium-Low]

## Division 4, Personnel Records

### §744.901. What information must I maintain in my personnel records?

Subchapter C, Record Keeping

Division 4, Personnel Records

October 2018

You must have the following records at the operation and available for review during your hours of operation for each employee, caregiver, substitute, and volunteer as specified in this chapter [Medium]:

- (1) Documentation showing the dates of the first and last day on the job [Medium-Low];
- (2) Documentation showing how the employee meets the minimum age and education qualifications, if applicable [Medium];
- (3) A copy of a health card or health care professional's statement verifying the employee is free of active tuberculosis, if required by the regional Department of State Health Services TB program or local health authority [Low];
- (4) A notarized Licensing *Affidavit for Applicants for Employment* form as specified in Human Resources Code, §42.059 [Medium-Low];
- (5) A record of training hours [Medium];
- (6) A statement signed and dated by the employee showing he has received a copy of the operation's:
  - (A) Operational policies [Medium]; and
  - (B) Personnel policies [Medium-Low];
- (7) Proof of request for background checks required under 40 TAC Chapter 745, Subchapter F (relating to Background Checks) [Medium];
- (8) A copy of a photo identification [Medium];
- (9) A copy of a current driver's license for each person who transports a child in care [Medium]; and
- (10) A statement signed and dated by the employee verifying the date the employee attended training during orientation that includes an overview regarding the prevention, recognition, and reporting of child maltreatment, as outlined in §744.1303 of this chapter (relating to What must orientation for employees at my operation include?). [Medium]

## **§744.907. How long and where must I keep the required personnel records?**

*Subchapter C, Record Keeping*

*Division 4, Personnel Records*

*September 2010*

- (a) You must keep all records for at least three months after an employee's last day on the job, with the exception of annual training records. [Medium-Low]
- (b) You must maintain annual training records for current personnel for the last full training year and current training year. [Medium-Low]
- (c) You must keep personnel records and attendance records for employees at the operation or in a central administrative location, provided they are immediately available for review during your hours of operation. [Medium-Low]

## **§744.909. May Licensing access my personnel records?**

*Subchapter C, Record Keeping*

*Division 4, Personnel Records*

*April 2017*

Yes. Licensing staff must be given immediate access to all personnel records that document compliance with minimum standards. You must allow Licensing to photograph, copy, or scan these records if requested. [Medium]

## Subchapter D, Personnel

### Division 1, Director

#### §744.1001. Am I required to have a director for my operation?

*Subchapter D, Personnel*

*Division 1, Director*

*April 2017*

- (a) You are required to designate an adult that has the daily, on-site responsibility for your operation, including maintaining compliance with the minimum standards and Licensing laws. [Medium-Low]
- (b) There are three types of recognized directors in a before and after-school or school-age program:
- (1) An operation director, who is responsible for your operation without the supervision of a program director;
  - (2) A program director, who oversees your program at multi-site operations and supervises a site director at each operation;
  - (3) A site director, who has the daily responsibility for a specific operation but is supervised by a program director.
- (c) In this subchapter, the term director applies to all types of directors listed in subsection (a) of this section, unless otherwise specified.

#### Helpful Information

- A director plays a crucial role in ensuring the smooth day-to-day operation of the program by balancing business concerns with what's good for children and by providing leadership and direction to the caregivers responsible for providing safe and healthy care for the children.
- You must notify Licensing of changes in directors as specified in §744.303 of this title (relating to What changes must I notify Licensing of regarding the operation's designee, governing body, and directors?).

## **§744.1003. If I have multiple operations, must I designate a director for each operation?**

*Subchapter D, Personnel*

*Division 1, Director*

*April 2017*

(a) If you have multi-site operations, you must designate a director at each operation.

However, a site director may share his responsibilities at an operation with a program director, provided the operation maintains substantial compliance with minimum standards and other relevant law. [Medium]

(b) A program director may supervise no more than:

(1) Nine site directors at multi-site before and after-school care programs

[Medium]; or

(2) Five site directors at multi-site school-age programs or at a combination of school-age programs and before and after-school programs. [Medium]

## **§744.1005. What are the director's responsibilities?**

*Subchapter D, Personnel*

*Division 1, Director*

*September 2010*

(a) Your director must ensure:

(1) Your operation complies with the minimum standards specified in this chapter [Medium-High];

(2) All employees comply with the minimum standards [Medium-High];

(3) All employees have assignments that match their skills, abilities, and training [Medium-High];

(4) All employees are supervised. Supervision includes, but is not limited to, knowing what the employees are doing and ensuring that they fulfill their assignments and responsibilities [Medium-High];

(5) Caregivers are not regularly scheduled for more than ten hours of direct child care during a 24-hour period [Medium-High]; and

(6) Qualified substitutes are called as necessary to meet minimum standards.

[Medium-High]

(b) If a program director and a site director share the director's responsibilities at an operation, you must provide Licensing with a written plan designating which responsibilities specified in subsection (a) of this section the site director and program director are responsible for on a daily basis. You must follow your plan and submit revisions to Licensing upon request. [Medium-High]

## **§744.1007. May I be a director of my own operation?**

*Subchapter D, Personnel*

*Division 1, Director*

*September 2010*

You may be both the director and permit holder of an operation if you meet all of the required qualifications and are able to fulfill the responsibilities of a director.

## **§744.1009. May I have more than one operation director?**

*Subchapter D, Personnel*

*Division 1, Director*

*September 2010*

You may designate more than one operation director if each director [Medium-Low]:

- (1) Meets the qualifications specified in this division; and
- (2) Receives a written job description that includes his job responsibilities.

## **§744.1011. For how many hours must a director be at my operation?**

*Subchapter D, Personnel*

*Division 1, Director*

*September 2010*

A director must be present a minimum of 75% of the program's operating hours each week or a minimum of 30 hours per week, whichever is less, to ensure the operation complies with all minimum standards. [Medium-High]

## Helpful Information

- The accessibility of the director, including the director's presence at the operation, is fundamental to a well-run operation.
- According to the American Academy of Pediatrics (AAP), the well-being of the children, the confidence of the parents of children in care, and the support, guidance, and professional growth of the employees depend largely upon the knowledge, skills, and dependable presence of a director.

### **§744.1013. Must someone else be designated to be in charge of my operation in the director's absence?**

*Subchapter D, Personnel*

*Division 1, Director*

*September 2010*

- (a) Yes. You or your director must designate a qualified caregiver to be in charge of the operation anytime the director is away from the operation during your hours of operation. If your operation has a program director and a site director, the written plan designating their responsibilities must address whether either or both directors may designate a qualified caregiver to be in charge of your operation in the site director's absence. [Medium]
- (b) Designated individuals must [Medium]:
- (1) Know they are in charge and for how long [Medium];
  - (2) Know their responsibilities while in charge [Medium];
  - (3) Have access to all essential information to communicate with parents and state and local authorities as needed [Medium]; and
  - (4) Have the authority to direct the operation in compliance with minimum standards. [Medium-High]
- (c) You or your director must ensure that all other employees know who is in charge in the director's absence. [Medium]

### **§744.1015. What qualifications must an operation director or a program director meet?**

*Subchapter D, Personnel*

Except as otherwise provided in this division, an operation director or program director must be at least 21 years of age, have a high school diploma or its equivalent, and meet one of the following combinations of education and experience **[Medium-High]**:

Education	Experience
(1) A bachelor's degree with six college credit hours in management,	and at least one year of experience in a licensed operation or similar experience as specified in §744.1021 of this title (relating to What types of experience may count towards meeting director qualifications?);
(2) An associate's of applied science degree in child development or a closely related field with six college credit hours in child development and six college credit hours in management. A "closely related field" is any educational instruction pertaining to the growth, development, physical or mental care, or education of children ages birth through 13 years,	and at least two years of experience in a licensed operation or similar experience as specified in §744.1021 of this title;
(3) Sixty college credit hours with nine college credit hours in child development and six college credit hours in management,	and at least two years of experience in a licensed operation or similar experience as specified in §744.1021 of this title, or instructor certification and one year experience in training others in a skill, talent, ability, expertise, or proficiency that is the goal of skill instruction or training that is a core component of your operation's program;
(4) A Child Development Associate credential or Certified Child-Care Professional credential with six college credit hours in management,	and at least two years of experience in a licensed operation or similar experience as specified in §744.1021 of this title;



Education	Experience
(5) A child-care administrator's certificate from a community college with at least 15 college credit hours in child development and three college credit hours in management,	and at least two years of experience in a licensed operation or similar experience as specified in §744.1021 of this title;
(6) A day-care administrator's credential issued by a professional organization or an educational institution and approved by Licensing based on criteria specified in Subchapter P of Chapter 745 of this title (relating to Day-Care Administrator's Credential Program),	and at least two years of experience in a licensed operation or similar experience as specified in §744.1021 of this title; or
(7) Nine college credit hours in child development and nine college credit hours in management,	and at least three years of experience in a licensed operation or similar experience as specified in §744.1021 of this title, or instructor certification and one year experience in training others in a skill, talent, ability, expertise, or proficiency that is the goal of skill instruction or training that is a core component of your operation's program.

### Helpful Information

- Knowledge of good business practices and administration are essential for managing a school-age or before or after-school program. A director has an obligation to be prepared to hire and maintain employees, establish and maintain communication with parents, and ensure the health, safety and well-being of the children in her care.
- Options (4) and (6) of this section require periodic renewal for the operation director or program director to remain qualified, as specified in §744.1051 of this title (relating to Will a director's certificate expire?) and §744.1053 of this title (relating to How often must an expiring certificate be renewed?).

## §744.1017. What qualifications must a site director meet?

Subchapter D, Personnel

Division 1, Director

April 2017

- (a) The qualifications for education and experience that a site director must meet depend in part on how many site directors are supervised by a program director. Except as otherwise provided in this division, the site director of an operation must have a high school diploma or its equivalent, and meet one of the following combinations of education and experience [Medium-High]:

Program Director to Site Director Ratio	Education	Experience
(1) Equal to or less than 1:5	30 clock hours of training in child or youth development, recreational leadership, or management; and	At least six months of experience in a licensed operation or similar experience as specified in §744.1021 of this title (relating to What types of experience may count towards meeting director qualifications?); or
(2) More than 1:5	70 clock hours of training in child or youth development, recreational leadership, or management; and	At least one year of experience in a licensed operation or similar experience as specified in §744.1021 of this title.

- (b) Except as otherwise provided in this division, a site director of an operation that provides care exclusively for children five years old and older must be at least 18 years of age, while the site director of an operation that also provides care for children younger than five years must be at least 21 years of age. [Medium]
- (c) A site director may complete the required education during the first 90 days of employment, if:
- (1) The site director completed at least half of the required education prior to beginning work as the site director [Medium]; and

(2) You provide Licensing a written plan describing the oversight the program director will be providing the site director until the required education is completed. If applicable, the plan must include the sharing of director responsibilities as required in §744.1005(b) of this title (relating to What are the director's responsibilities?). [Medium-High]

### Helpful Information

Closer supervision and mentoring by the program director is important for those site directors who are still in the process of completing their required education. This oversight may include more frequent scheduled visits to the operation.

## **§744.1021. What types of experience may count towards meeting director qualifications?**

*Subchapter D, Personnel*

*Division 1, Director*

*September 2010*

(a) The following types of experience may be counted as experience [Low]:

- (1) Experience as a director, assistant director, or caregiver working directly with children, obtained in any operation regulated by DFPS, whether paid or unpaid;
- (2) Experience as a director, assistant director, or caregiver working directly with children in a licensed or certified operation in another state or country;
- (3) One year experience providing skill-based instruction or as a caregiver in a recreational or youth development program, where children in pre-kindergarten through grade six are in care for at least two hours a day, three days a week;
- (4) One year of full-time classroom teaching in a public or private accredited school in grades pre-kindergarten through grade six, during a customary school year;
- (5) Substitute or part-time classroom teaching in a public or private accredited school in grades pre-kindergarten through grade six, if the total length of time adds up to one year of full-time teaching during a customary school year; or
- (6) One year of post-graduate study in child development, early childhood education, or a closely related field.

(b) You must have obtained all work experience in a full-time capacity or its equivalent in a part-time capacity. Full-time is defined as 30 hours per week.

[Low]

## **§744.1023. Can Licensing verify whether someone has sufficient experience?**

*Subchapter D, Personnel*

*Division 1, Director*

*April 2017*

Yes. To determine whether a person has sufficient experience to qualify as a director, we may, at our own discretion, verify the person's child-care experience and substitute child-care experience via the Internet, telephone or mail contact with previous employer(s), or through our records.

## **§744.1025. What credit courses does Licensing recognize as child development?**

*Subchapter D, Personnel*

*Division 1, Director*

*September 2010*

Due to a large variation in credit course titles and content, it is impossible to list all courses that may be counted toward the child development requirement. Courses in early childhood education, child growth and development, psychology, sociology, classroom management, child psychology, health and safety of children, elementary education related to pre- kindergarten through grade six, youth development, kinesiology, biomechanics, motor development and performance, physiology of exercise, physical education, and other similar courses may be counted, provided the course content relates to child development or the topics specified in §744.1309 of this title (relating to How many clock hours of annual training must be obtained by caregivers and site directors?). Abnormal psychology and secondary education courses are not recognized as child development. [\[Low\]](#)

## **§744.1027. What credit courses does Licensing recognize as management?**

*Subchapter D, Personnel*

*Division 1, Director*

*September 2010*

Due to a large variation in credit course titles and content, it is impossible to list all courses that may be counted toward the management requirement. Management courses may include administration of a child-care facility, recreational leadership, accounting, goal and objective setting, performance planning and evaluation, management techniques, risk management and other administrative, management, or supervisory-related courses. Courses in office machines or computer training are not recognized as management. [Low]

## **§744.1029. What documentation must I provide to show that my director meets child development and management education qualifications?**

*Subchapter D, Personnel*

*Division 1, Director*

*April 2017*

If requested by Licensing, you must provide original transcripts and supporting documentation, such as a credit course catalog description or a course syllabus or outline, so that Licensing may determine whether the course is recognized as child development or management.

## **§744.1035. May clock hours or CEUs (continuing education units) be substituted for any of the educational requirements in this division?**

*Subchapter D, Personnel*

*Division 1, Director*

*April 2017*

- (a) Clock hours or CEUs may only be substituted for the required credit hours in child development and management.
- (b) 50 clock hours or five CEUs may be substituted for every three college credit hours required in child development and/or management.

- (c) The documentation to verify the clock hours or CEUs must be as specified in §744.1331 of this title (relating to What documentation must I provide to Licensing to verify that training requirements have been met?).

## **§744.1037. What additional documentation must I submit to Licensing to show my director is qualified and when must I submit it?**

*Subchapter D, Personnel*

*Division 1, Director*

*April 2017*

- (a) In addition to showing that your director meets the minimum qualifications for an employee (and minimum qualifications for a caregiver, if applicable), you must submit the following for each director at your operation [Low]:

- (1) A completed Licensing Personal History Statement form specifying the education and experience of each designated director [Medium];
- (2) A completed Licensing Governing Body/Director Designation form [Medium-Low]; and
- (3) An original and current Licensing Director's Certificate form, or an original college transcript or original training certificates which verify the educational requirements. Original letters may be substituted for training certificates, provided they include the same information as specified in §744.1331 of this title (relating to What documentation must I provide to Licensing to verify that training requirements have been met?) [Medium]; and
- (4) Complete dates, names, addresses, and telephone numbers which support the required experience. [Medium]

- (b) You must submit the information to us:

- (1) As part of a new application for a permit [Medium]; or
- (2) Within five days of designating a new operation director, program director, or site director. [Medium]

## **§744.1043. Does education received outside of the United States substitute for the education requirements for a director?**

*Subchapter D, Personnel*

*Division 1, Director*

*September 2010*

Yes. However, you must provide supporting information such as a copy of the diploma or transcript or letter from the school to indicate that the education is equivalent to a program in the United States. Documents written in a foreign language must be translated into English. [\[Low\]](#)

## **§744.1045. Will Licensing keep the original training certificates and college transcripts I submit to obtain a Licensing director's certificate?**

*Subchapter D, Personnel*

*Division 1, Director*

*September 2010*

No. After we evaluate this information and issue a director's certificate, we will return the original documents to you along with the certificate or if a certificate is not issued, along with the letter notifying you of the decision.

## **§744.1047. What happens if Licensing determines that a director for my operation does not meet minimum standard qualifications?**

*Subchapter D, Personnel*

*Division 1, Director*

*September 2010*

We will notify you that your director is in violation of minimum standards for failure to meet director qualifications as soon as possible, but no later than ten days after a determination is made. We will give you a deadline to submit additional paperwork or to designate another director and submit new paperwork.



## **§744.1049. Will my director receive a certificate verifying that director qualifications have been met?**

*Subchapter D, Personnel*

*Division 1, Director*

*September 2010*

Yes. After we determine that your director meets minimum standard qualifications, we will issue a Licensing *Director's Certificate*. The certificate verifies only that the named person meets minimum standard qualifications specified in §744.1015 of this title (relating to What qualifications must an operation director or a program director meet?) or §744.1017 of this title (What qualifications must a site director meet?).

## **§744.1051. Will a director's certificate expire?**

*Subchapter D, Personnel*

*Division 1, Director*

*April 2017*

- (a) An operation director's certificate or program director's certificate will expire if the operation director or program director was qualified under options (4) or (6) of §744.1015 of this title (relating to What qualifications must an operation director or a program director meet?). Otherwise, an operation director's certificate and a program director's certificate will not expire.
- (b) A site director's certificate will not expire.

## **§744.1053. How often must an expiring certificate be renewed?**

*Subchapter D, Personnel*

*Division 1, Director*

*April 2017*

If an operation director or program director qualifies under options (4) or (6) of §744.1015 of this title (relating to What qualifications must an operation director or program director meet?), the operation director or program director must maintain the credential according to the issuing organization's or educational institution's requirements. The director with the certificate must submit to us a copy of a letter or other documentation confirming the credential is current before we can renew the *Director's Certificate*. [Low]

## **§744.1055. What happens if my operation director's or program director's credential expires?**

*Subchapter D, Personnel*

*Division 1, Director*

*April 2017*

We will give you a deadline for your operation director or program director to submit the required documentation or for you to designate another qualified director. If your operation director or program director allows the certificate to expire without submitting the required documentation confirming that the credential is current, then your operation will no longer meet the minimum standards for that director position.

[Low]

## **§744.1057. If I hire someone who was qualified as a director at another licensed operation in Texas, must I resubmit all of the information to Licensing staff for review?**

*Subchapter D, Personnel*

*Division 1, Director*

*September 2010*

- (a) If you can provide an original and current Licensing *Director's Certificate*, you will not be required to resubmit the information establishing qualifications. [Low]
- (b) If an original and current Licensing *Director's Certificate* is not available, or Licensing cannot verify the director is qualified, you must resubmit the information to us to determine if your designated director meets minimum director qualifications. [Low]

## **§744.1059. Does Licensing charge a fee for issuing the director's certificate?**

*Subchapter D, Personnel*

*Division 1, Director*

*September 2010*

No. We do not charge a fee for processing a director's certificate.

## **§744.1061. Can my director get a replacement *Director's Certificate*?**

*Subchapter D, Personnel*

*Division 1, Director*

*September 2010*

Yes. We will issue a replacement *Director's Certificate*, if you submit your request to us in writing, specifying:

- (1)The name and address of your operation;
- (2)The name of the director for whom the replacement certificate is needed;
- (3)The date we issued the original certificate; and
- (4)The reason a replacement certificate is needed.

## **Division 2, Employees and Caregivers**

### **§744.1103. What minimum qualifications must each of my employees meet?**

*Subchapter D, Personnel*

*Division 2, Employees and Caregivers*

*October 2018*

Each employee must:

- (1)Meet the requirements in 40 TAC Chapter 745, Subchapter F (relating to Background Checks);
- (2)Have a current record of a tuberculosis examination, showing the employee is free of contagious TB, if required by the Texas Department of State Health Services or local health authority [\[Low\]](#); and
- (3)Complete a notarized Licensing Affidavit for Applicants for Employment form as specified in Human Resources Code, §42.059. [\[Low\]](#)

## **§744.1105. What additional minimum qualifications must each of my caregivers meet?**

*Subchapter D, Personnel*

*Division 2, Employees and Caregivers*

*October 2018*

Except as otherwise provided in this division, each caregiver must comply with minimum standards for employees and must [Low]:

- (1) Be at least 18 years of age [Medium]; and
- (2) Have a:
  - i. High school diploma [Medium-High];
  - ii. High school equivalent [Medium-High]; or
  - iii. High school certificate of coursework completion as defined in Texas Education Code, §28.025(d). [Medium-High]

### **Helpful Information**

- Research clearly shows that the caregiver-child relationship is the single most important component of a child's experience in care.
- Caregivers chosen for their knowledge of the developmental needs of the children in their care and for their ability to respond appropriately to these needs promotes a healthy and safe child-care environment.

## **§744.1107. When may I employ a person under the age of 18 or a person who does not have a high school diploma or equivalent as a caregiver?**

*Subchapter D, Personnel*

*Division 2, Employees and Caregivers*

*April 2017*

- (a) You may employ a 16 or 17-year old who has a high school diploma or its equivalent and count the person in the child/caregiver ratio, provided that

[Medium-High]:

- (1) You don't leave the person alone with sole responsibility for or in charge of an individual child, a group of children, or the operation [Medium];
- (2) The person works in the same room with and is supervised by a caregiver qualified under §744.1105 of this title (relating to What additional minimum qualifications must each of my caregivers meet?) [Medium]; and
- (3) The person has completed a child-care-related career program, which:
  - (A) The Texas Education Agency (including a charter school), the Texas Private School Accreditation Commission, other similar educational entity in another state, or federal agency approves [Medium]; or
  - (B) A home-school approves, and the person completes the eight hours of pre- service training before being placed in a room with children.

[Medium]

- (b) You may employ a 16-, 17-, or 18-year old who attends high school but has not graduated and count the person in the child/caregiver ratio, provided that

[Medium-High]:

- (1) You don't leave the person alone with sole responsibility for or in charge of an individual child, a group of children, or the operation [Medium];
- (2) The person works in the same room with and is supervised by a caregiver qualified under §744.1105 of this title [Medium-High];
- (3) The person is currently enrolled in or has completed a child-care-related career program, which:

- (A) The Texas Education Agency (including a charter school), the Texas Private School Accreditation Commission, other similar educational entity in another state, or federal agency approves [Medium]; or
- (B) A home-school approves, and the person completes the eight hours of pre- service training before being placed in a room with children [Medium]; and
- (4) The person is expected to obtain a high school diploma or equivalent. [Medium]

#### Helpful Information

- Age 18 is the minimal age a caregiver can be expected to make independent decisions and respond appropriately to the needs of children.
- A high school diploma or its equivalency is a recognized indicator of basic literacy in our society.

### **§744.1109. Does education received outside of the United States count toward caregiver qualifications?**

*Subchapter D, Personnel*

*Division 2, Employees and Caregivers*

*September 2010*

Yes. However, you must provide supporting information such as a copy of the diploma or letter from the school district to indicate that the education is equivalent to a high school diploma program in the United States. Documents written in a foreign language must be translated into English. [Medium]

## Division 3, General Responsibilities for Personnel

### §744.1201. What general responsibilities do my employees have?

*Subchapter D, Personnel*

*Division 3, General Responsibilities for Personnel*

*September 2010*

All employees, including persons not counted in the child/caregiver ratio, must:

- (1) Demonstrate competency, good judgment, and self-control in the presence of children and when performing assigned responsibilities [High];
- (2) Relate to children with courtesy, respect, acceptance, and patience [High];
- (3) Recognize and respect the uniqueness and potential of all children, their families, and their cultures [High];
- (4) Ensure that no child is abused, neglected, or exploited while in the care of the operation [High]; and
- (5) Report suspected abuse, neglect, and exploitation to DFPS or to law enforcement, as specified in the Texas Family Code §261.101. [High]

## **§744.1203. What additional responsibilities do my caregivers have?**

*Subchapter D, Personnel*

*Division 3, General Responsibilities for Personnel*

*April 2017*

In addition to the responsibilities for employees specified in this division, caregivers must:

- (1) Know and comply with the minimum standards in this chapter [High];
- (2) Know which children they are responsible for [High];
- (3) Know each child's name and have information showing each child's age [Medium-High];
- (4) Supervise children at all times, as specified in §744.1205 of this title (relating to What does Licensing mean by "supervise children at all times?") [High];
- (5) Ensure the children are not out of control [Medium-High];
- (6) Be free from activities not directly involving the teaching, care, and supervision of children, such as:
  - (A) Administrative and clerical duties that take the caregiver's attention away from the children [Medium-High];
  - (B) Meal preparation, except when 12 or fewer children are in care [Medium-High];
  - (C) Janitorial duties [Medium-High]; and
  - (D) Personal use of electronic devices, such as cell phones, MP3 players, tablets, and video games [Medium-High];
- (7) Interact with children in a positive manner. [Medium-High]
- (8) Foster developmentally appropriate independence in children through planned but flexible program activities [Medium-High];
- (9) Foster a cooperative rather than a competitive atmosphere [Medium-High];
- (10) Show appreciation of children's efforts and accomplishments [Medium-Low]; and
- (11) Ensure continuity of care for children by sharing with incoming caregivers information about each child's activities during the previous shift and any verbal or written instructions given by the parent. [Medium]



### Helpful Information

Research has shown children's physical, social, emotional and intellectual development and safety depend on consistent, caring interaction between children and their caregivers.

## **§744.1205. What does Licensing mean by “supervise children at all times”?**

*Subchapter D, Personnel*

*Division 3, General Responsibilities for Personnel*

*September 2010*

Supervising children at all times means that the assigned caregiver is accountable for each child's care. This includes responsibility for the ongoing activity of each child, appropriate visual and/or auditory awareness, physical proximity, and knowledge of activity requirements and each child's needs. The caregiver must intervene when necessary to ensure children's safety. In deciding how closely to supervise children, the caregiver must take into account:

- (1)Ages of the children;
- (2)Individual differences and abilities;
- (3)Indoor and outdoor layout of the operation; and
- (4)Neighborhood circumstances, hazards, and risks.

### Helpful Information

- Supervision is basic to the prevention of harm. Parents have an understanding that caregivers will supervise their children in their absence. Adults who are attentive and who understand children's behaviors are in the best position to safeguard their well-being.
- Operations can also establish an understanding with parents regarding who (when the parent and when the operation) is responsible for the child while the parent and the child are both on the premises. These understandings could be laid out in the enrollment agreement.

## Division 4, Professional Development

### §744.1301. What training must I ensure that my employees, caregivers, and directors have within specific timeframes?

*Subchapter D, Personnel*

*Division 4, Professional Development*

*October 2018*

You must make sure that employees, caregivers, and directors have the training required in the following chart:

Weight	Type of training:	Who is required to take the training?	When must the training be completed?
Medium-High	(1)(A) Orientation to your operation as required by §744.1303 of this division (relating to What must orientation for employees at my operation include?).	(B) Each employee.	(C) Within seven days of employment and before having unsupervised access to a child in care.
Medium-High	(2)(A) Eight clock hours of pre-service training as required by §744.1305 of this division (relating to What areas of training must the pre-service training for caregivers cover?).	(B) Each non-exempt caregiver. A caregiver may be exempt from pre-service training as specified in §744.1307 of this division (relating to Are any caregivers exempt from the pre-service training?).	(C) For non-exempt caregivers, within 90 days of employment and before being counted in the child/caregiver ratio.

<b>Weight</b>	<b>Type of training:</b>	<b>Who is required to take the training?</b>	<b>When must the training be completed?</b>
Medium-High	(3)(A) Pediatric first aid with rescue breathing and choking as required by §744.1315(a) of this division (relating to Who must have pediatric first aid and pediatric CPR training?).	(B) Each caregiver, site director, program director, and operation director.	(C)(i) Within 90 days of employment and before having unsupervised access to a child in care; and (C)(ii) The person must stay current in this training.
Medium-High	(4)(A) Pediatric CPR as required by §744.1315(b) of this division.	(B) Each caregiver, site director, program director, and operation director.	(C)(i) Within 90 days of employment; and (C)(ii) The person must stay current in this training.
Medium-High	(5)(A) 15 clock hours of annual training as required by §744.1309 of this division (relating to What areas of training must the annual training for caregivers and site directors cover?).	(B) Each caregiver and site director.	(C)(i) Within 12 months of employment; and (C)(ii) During each 12- month period, and as further required by §744.1313 of this division (relating to When must annual training for my caregivers and director be obtained?).

<b>Weight</b>	<b>Type of training:</b>	<b>Who is required to take the training?</b>	<b>When must the training be completed?</b>
Medium-High	(6)(A) 20 clock hours of annual training as required by §744.1311 of this division (relating to What areas of training must the annual training for an operation director or a program director cover?).	(B) Each program director or operation director.	(C)(i) Within 12 months of employment; and (C)(ii) During each 12- month period, and as further required by §744.1313 of this division.
Medium-High	(7)(A) Two clock hours of transportation training as required by §744.1317 of this division (relating to What additional training must an employee and director have if the operation transports children?).	(B)(i) The site director, and program director or operation director, if the operation transports a child whose chronological or developmental age is younger than nine years old; and (B)(ii) Each employee who transports a child whose chronological or developmental age is younger than nine years old.	(C)(i) Prior to transporting children; and (C)(ii) Annually, thereafter.

## §744.1303. What must orientation for employees at my operation include?

*Subchapter D, Personnel*

*Division 4, Professional Development*

*October 2018*

Your orientation for employees must include at least the following:

- (1) An overview of the minimum standards found in this chapter [Medium-High];
- (2) An overview of operational policies, including discipline and guidance practices and procedures for the release of children [Medium-High];
- (3) An overview regarding the prevention, recognition, and reporting of child maltreatment including:
  - (A) Factors indicating a child is at risk of abuse or neglect [Medium];
  - (B) Warning signs indicating a child may be a victim of abuse or neglect [Medium];
  - (C) Procedures for reporting child abuse or neglect [Medium]; and
  - (D) Community organizations that have training programs available to employees, children, and parents [Medium];
- (4) An overview of the procedures to follow in handling emergencies, which includes sharing the emergency preparedness plan with all employees. Emergencies may include fire, explosion, tornado, toxic fumes, volatile persons, and severe injury or illness of a child or adult [Medium-High];
- (5) The location and use of fire extinguishers and first-aid equipment. [Medium-High]
- (6) Administering medication, if applicable, including compliance with §744.2653 of this chapter (relating to What authorization must I obtain before administering a medication to a child in my care?) [Medium];
- (7) Preventing and responding to emergencies due to food or an allergic reaction [Medium];
- (8) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic [Medium];
- (9) Handling, storing, and disposing of hazardous materials, including compliance with §744.2523 of this chapter (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?) [Medium]; and
- (10) Precautions in transporting children, if your operation transports a child whose chronological or developmental age is younger than nine years old. [Medium]

### Helpful Information

- Orientation programs for new employees should be specific to the individual operation.

### Helpful Information

- Orientation, which addresses employee responsibilities, is different from training, which addresses issues general to the care of children.

## **§744.1305. What areas of training must the pre-service training for caregivers cover?**

*Subchapter D, Personnel*

*Division 4, Professional Development*

*October 2018*

The eight clock hours of pre-service training must cover the following areas:

- (1) Developmental stages of children [Medium];
- (2) Age-appropriate activities for children [Medium];
- (3) Positive guidance and discipline of children [Medium];
- (4) Fostering children's self-esteem [Medium];
- (5) Supervision and safety practices in the care of children [Medium];
- (6) Positive interaction with children [Medium]; and
- (7) Preventing and controlling the spread of communicable diseases, including immunizations. [Medium]

### Helpful Information

- Pre-service training should be viewed as a support to the caregiver who has taken on the responsibility of caring for children for the first time.
- Research indicates without some basic understanding of children and how to work with them, the health, safety and well-being of the children in care are at risk.

## **§744.1307. Are any caregivers exempt from the pre-service training?**

*Subchapter D, Personnel*

*Division 4, Professional Development*

*October 2018*

Yes. A caregiver is exempt from the pre-service training requirements if the caregiver has:

- (1) At least six months prior experience in a regulated operation; or
- (2) Documentation of at least eight clock hours of training in the areas specified in §744.1305 of this division (relating to What areas of training must the pre-service training for caregivers cover?) at another regulated operation.

## **§744.1309. What areas of training must the annual training for caregivers and site directors cover?**

*Subchapter D, Personnel*

*Division 4, Professional Development*

*October 2018*

- (a) The 15 clock hours of annual training must:
  - (1) For a caregiver, be relevant to the age of the children for whom the caregiver provides care [Medium]; or
  - (2) For a site director, be relevant to the age of the children for whom the operation provides care. [Medium]
- (b) At least six clock hours of the annual training hours must be in one or more of the following topics:
  - (1) Child growth and development [Medium];
  - (2) Guidance and discipline [Medium];
  - (3) Age-appropriate curriculum [Medium]; and
  - (4) Teacher-child interaction. [Medium]

- (c) At least one clock hour of the annual training hours must focus on prevention, recognition, and reporting of child maltreatment, including:
- (1) Factors indicating a child is at risk for abuse or neglect [Medium];
  - (2) Warning signs indicating a child may be a victim of abuse or neglect [Medium];
  - (3) Procedures for reporting child abuse or neglect [Medium]; and
  - (4) Community organizations that have training programs available to employees, children, and parents. [Medium]
- (d) While there are no clock hour requirements for the topics in this subsection, the annual training hours must also include training on the following topics:
- (1) Emergency preparedness [Medium];
  - (2) Preventing and controlling the spread of communicable diseases, including immunizations [Medium];
  - (3) Administering medication, if applicable, including compliance with §744.2653 of this chapter (relating to What authorization must I obtain before administering a medication to a child in my care?) [Medium];
  - (4) Preventing and responding to emergencies due to food or an allergic reaction [Medium];
  - (5) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic [Medium]; and
  - (6) Handling, storing, and disposing of hazardous materials including compliance with §744.2523 of this chapter (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?). [Medium]



- (e) The remaining annual training hours must be in one or more of the following topics:
- (1) Care of children with special needs [Low];
  - (2) Child health (for example, nutrition and physical activity) [Low];
  - (3) Safety [Low];
  - (4) Risk management [Low];
  - (5) Identification and care of ill children [Low];
  - (6) Cultural diversity for children and families [Low];
  - (7) Professional development (for example, effective communication with families and time and stress management) [Low];
  - (8) Topics relevant to the particular age group the caregiver is assigned [Low];
  - (9) Planning developmentally appropriate learning activities [Low]; and
  - (10) Minimum standards and how they apply to the caregiver. [Low]
- (f) No more than 80% of the required annual training hours may come from self-instructional training. No more than three of those self-instructional hours may come from self-study training. [Medium-Low]
- (g) The 15 clock hours of annual training are exclusive of any requirements for orientation, pre-service training, pediatric first aid and pediatric CPR training, transportation safety training, and high school child-care work-study classes.

### Helpful Information

- Research has shown that caregivers who are better trained are better able to prevent, recognize, and correct health and safety problems.
- Annual ongoing training provides caregivers an opportunity to learn the newest techniques for addressing children's behaviors, to discover the latest findings on what children need as they develop, and to refresh and re-energize their skills.
- Some re-training on previously studied topics is necessary to keep skills and knowledge up-to-date.

## **§744.1311. What areas of training must the annual training for an operation director or a program director cover?**

*Subchapter D, Personnel*

*Division 4, Professional Development*

*October 2018*

- (a) The 20 clock hours of annual training must be relevant to the age of the children for whom the operation provides care. [Medium]
- (b) At least six clock hours of the annual training hours must be in one or more of the following topics:
  - (1) Child growth and development [Medium];
  - (2) Guidance and discipline [Medium];
  - (3) Age-appropriate curriculum [Medium];
  - (4) Teacher-child interaction [Medium]; and
  - (5) Serving children with special care needs. [Medium]
- (c) At least one clock hour of the annual training hours must focus on prevention, recognition, and reporting of child maltreatment, including:
  - (1) Factors indicating a child is at risk for abuse or neglect [Medium];
  - (2) Warning signs indicating a child may be a victim of abuse or neglect [Medium];
  - (3) Procedures for reporting child abuse or neglect [Medium]; and
  - (4) Community organizations that have training programs available to employees, children, and parents. [Medium]

(d) While there are no clock hour requirements for the topics in this subsection, the annual training hours must also include training on the following topics:

- (1) Emergency preparedness [Medium];
  - (2) Preventing and controlling the spread of communicable diseases, including immunizations [Medium];
  - (3) Administering medication, if applicable, including compliance with §744.2653 of this chapter (relating to What authorization must I obtain before administering a medication to a child in my care?) [Medium];
  - (4) Preventing and responding to emergencies due to food or an allergic reaction [Medium];
  - (5) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic [Medium]; and
  - (6) Handling, storing, and disposing of hazardous materials including compliance with §744.2523 of this chapter (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?). [Medium]
- (e) An operation director or program director with:
- (1) Five or fewer years of experience as a designated operation director or program director must complete at least six clock hours of the annual training hours in management techniques, leadership, or staff supervision [Medium]; or
  - (2) More than five years of experience as a designated operation director or program director must complete at least three clock hours of the annual training hours in management techniques, leadership, or staff supervision. [Low]
- (f) The remainder of the 20 clock hours of annual training must be selected from the training topics specified in §744.1309(e) of this division (relating to What areas of training must the annual training for caregivers and site directors cover?). [Low]
- (g) An operation director or program director may obtain clock hours or CEUs from the same sources as caregivers.
- (h) A director may not earn training hours by presenting training to others.
- (i) No more than 80% of the required annual training hours may come from self-instructional training. No more than three of those self-instructional hours may come from self-study training. [Low]

- (j) The 20 clock hours of annual training are exclusive of any requirements for orientation, pre-service training, pediatric first aid and pediatric CPR training, and transportation safety training.

### **§744.1313. When must annual training for my caregivers and director be obtained?**

*Subchapter D, Personnel*

*Division 4, Professional Development*

*September 2010*

Each caregiver and director must obtain their annual training within 12 months from the date of their employment and during each subsequent 12-month period, unless otherwise specified in this division. If they obtain more than the minimum number of annual training clock hours required, they may not carry the additional clock hours over to the next year. [Low]

### **§744.1315. Who must have pediatric first aid and pediatric CPR training?**

*Subchapter D, Personnel*

*Division 4, Professional Development*

*October 2018*

- (a) Each caregiver, operation director, program director, and site director must have a current certificate of training with an expiration or renewal date in pediatric first aid with rescue breathing and choking. [Medium-High]
- (b) Each caregiver, operation director, program director, and site director must have a current certificate of training with an expiration or renewal date in pediatric cardiopulmonary resuscitation (CPR). A new caregiver does not have to have a current certificate in pediatric CPR before having unsupervised access to a child in care. However, the operation must have at least one employee or caregiver on the premises while children are in care that has a current certificate in pediatric CPR. [Medium-High]

The pediatric CPR:

- (1) Must adhere to the guidelines for CPR for a layperson established by the American Heart Association, and consist of a curriculum that includes use of a CPR manikin and both written and hands-on skill-based instruction, practice, and testing [Medium-High]; and
- (2) May be provided through blended learning that utilizes online technology, including self-instructional training, as long as the criteria in paragraph (1) of this subsection is met.

#### Helpful Information

- According to the American Academy of Pediatrics, knowledge of pediatric first aid, including management of a blocked airway and rescue breathing and the confidence to use these skills, are critically important to the outcome of an emergency situation.
- The pediatric CPR aid training obtained from resources that meet the criteria in paragraph (b)(1) will help ensure that the techniques and information the caregiver receives is up to date.

### **§744.1317. What additional training must an employee and director have if the operation transports children?**

*Subchapter D, Personnel*

*Division 4, Professional Development*

*October 2018*

- (a) If the operation transports children whose chronological or developmental age is younger than nine years old, two clock hours of annual transportation safety training is required for:
  - (1) Each employee prior to transporting a child [Medium-High]; and
  - (2) Each site director, and program director or operation director. [Medium-High]
- (b) The two clock hours of transportation safety training are exclusive of any requirements for orientation, pre-service training, and annual training.

## **§744.1319. Must the training for my caregivers and the director meet certain criteria?**

*Subchapter D, Personnel*

*Division 4, Professional Development*

*April 2017*

(a) Training may include clock hours or CEUs provided by:

- (1) A training provider registered with the Texas Early Childhood Professional Development System Training Registry, maintained by the Texas Head Start State Collaboration Office [Low];
- (2) An instructor who teaches early childhood development or another relevant course at a secondary school or institution of higher education accredited by a recognized accrediting agency [Low];
- (3) An employee of a state agency with relevant expertise [Low];
- (4) A physician, psychologist, licensed professional counselor, social worker, or registered nurse [Low];
- (5) A person who holds a generally recognized credential or possesses documented knowledge relevant to the training the person will provide [Low];
- (6) A person who has at least two years of experience working in child development, a child development program, early childhood education, a childhood education program, or a Head Start or Early Head Start program and:
  - (A) Has a current Child Development Associate (CDA) credential [Low]; or
  - (B) Holds at least an associate's degree in child development, early childhood education, or a related field. [Low]

(b) Training may include clock hours or CEUs obtained through self-instructional materials, if the materials were developed by a person who meets one of the qualifications in subsection (a) of this section. [Medium-Low]

- (c) Instructor-led and self-instructional training, excluding self-study training, must include:
- (1) Specifically stated learning objectives [Medium-Low];
  - (2) A curriculum, which includes experiential or applied activities [Medium-Low];
  - (3) An evaluation/assessment tool to determine whether the person has obtained the information necessary to meet the stated objectives [Medium-Low]; and
  - (4) A certificate of successful completion from the training source. [Medium-Low]

**§744.1321. Does Licensing approve training resources or trainers for training hours?**

*Subchapter D, Personnel*  
*Division 4, Professional Development*  
*April 2017*

No. We do not approve or endorse training resources or trainers for training hours. But you must ensure you and your employees receive training that:

- (1) Meets the criteria specified in §744.1319 of this title (relating to Must the training for my caregivers and the director meet certain criteria?);
- (2) Is relevant to the topics specified in this division; and
- (3) The participants receive original documentation of completion, as specified in this division.

Helpful Information
<p>We recommend you:</p> <ul style="list-style-type: none"><li>• Ask the trainer to provide you with a résumé or vita showing relevant experience and education, or be certain you are obtaining training through reliable sources in the community who have verified the presenter’s qualifications for you;</li><li>• Make sure a trainer registered with the Texas Early Childhood Professional Development System Training Registry is actually registered and approved to deliver the particular training; and</li><li>• Ask to preview the materials before entering into an agreement to purchase any training. Your preview should:</li></ul>

### Helpful Information

- Make sure the materials contain the information necessary to meet the stated objectives;
- Look at the evaluation/assessment tool to determine whether the training is of sufficient quality; and
- Review a copy of the certificate your employees will receive to make sure it meets the requirements of §744.1331.

### **§744.1323. If I have a caregiver who attends college or a Child Development Associate/Certified Child-Care Professional credential program, may I count these clock hours toward the annual training requirement?**

*Subchapter D, Personnel*

*Division 4, Professional Development*

*September 2010*

Yes. If the training is in a topic specified in this division and the caregiver can provide documentation of completion as specified in this division, then you may count this training toward the annual training requirement.



## **§744.1325. If I hire a caregiver or a director that received training at another operation, may these hours count towards the annual training requirement at my operation?**

*Subchapter D, Personnel*

*Division 4, Professional Development*

*April 2017*

Training received at another operation can be applied towards the annual training requirement, if:

- (1) The caregiver or director provides documentation of training, as specified in §744.1331 of this title (relating to What documentation must I provide to Licensing to verify that training requirements have been met?);
- (2) The person obtained the training from a child-care center, a school-age or before or after- school program, or a child-care home that we license or register; and
- (3) The training was obtained within two months before coming to work for your operation.

### **Helpful Information**

For example, a caregiver comes to work for you on June 1, 2016 and needs 24 hours of annual training. The caregiver provides documentation that she had 6 hours of appropriate annual training on April 15, 2016 at the operation she previously worked for. The caregiver would only need 18 additional hours of annual training for June 1, 2016 - May 31, 2017.

## **§744.1331. What documentation must I provide to Licensing to verify that employees have met training requirements?**

*Subchapter D, Personnel*

*Division 4, Professional Development*

*October 2018*

- (a) You must maintain the original certificate or letter documenting the completion of annual training in each employee's personnel record at the operation. [Medium-Low]
- (b) For annual training to be counted toward compliance with the minimum standards, the trainer or training source must provide the participant with an original certificate or letter showing:
  - (1) The participant's name [Medium-Low];
  - (2) Date of the training [Medium-Low];
  - (3) Title/subject of the training [Medium-Low];
  - (4) The trainer's name, or the source of the training for self-instructional training [Low];
  - (5) The trainer's qualifications, in compliance with §744.1319 of this division (relating to Must the training for my caregivers and the director meet certain criteria?) [Low]; and
  - (6) Length of the training specified in clock hours, CEUs, or college credit hours, as appropriate. [Low]
- (c) For pediatric first aid with rescue breathing and choking and pediatric CPR to count toward compliance with the minimum standards:
  - (1) The certificate or letter must include:
    - (A) The same information required in subsection (b) of this section [Low]; and
    - (B) The expiration or renewal date of the training, as determined by the organization providing the training [Low]; and
  - (2) You must maintain:
    - (A) The original certificate or letter documenting the completion of pediatric first aid and pediatric CPR in each employee's personnel record at the operation [Low]; or

(B) A photocopy of the original certificate or letter documenting the completion of pediatric first aid and pediatric CPR in each employee's personnel record at the operation, so long as the employee is able to provide an original certificate or letter upon Licensing's request. [Low]

(d) For orientation and pre-service training, you must obtain a signed and dated statement from the employee and the person providing the orientation or pre-service training stating the employee has received the orientation or pre-service training, or you may obtain an original certificate or letter as specified in subsection (b) of this section. [Low]

### Helpful Information

- Original certificates help to verify an employee actually received the training. A permit holder has the discretion to release training records to an employee upon leaving their employment.
- Regarding paragraph (b)(4) and (5), when an employee receives training at a conference then the conference sponsors may be responsible for ensuring that all the presenters meet the required trainer qualifications. This may be done instead of listing on the training certificate all the presenters and their qualifications.

## Division 5, Volunteers, Substitutes, and Persons under Contract

### §744.1401. What minimum standards must substitutes, volunteers, or persons under contract with my operation comply with?

*Subchapter D, Personnel*

*Division 5, Volunteers, Substitutes, and Persons under Contract*

*April 2017*

- (a) For purposes of this rule:
  - (1) Persons under contract with your operation are "contractors"; and
  - (2) It does not matter if a substitute, volunteer, or contractor is paid or unpaid.
- (b) Substitutes not counted in the child/caregiver ratio must comply with minimum standards that apply to employees, except as otherwise provided in this division. [Medium]
- (c) Volunteers and contractors who are regularly or frequently present at the operation but not counted in the child/caregiver ratio must comply with minimum standards that apply to employees. [Medium]
- (d) Substitutes, volunteers, and contractors who are counted in the child/caregiver ratio must comply with minimum standards that apply to employees and caregivers, except as otherwise noted in subsection (e) of this section. [Medium]
- (e) Volunteers, including parents, who only supplement the ratios for field trips and water activities do not have to comply with the minimum standards that apply to employees and caregivers, but they do have to comply with the relevant minimum standards in Subchapter E of this chapter (relating to Child/Caregiver Ratios and Group Sizes). [Medium]
- (f) Substitutes, volunteers, and contractors who do not meet caregiver qualifications must never be left alone with children. [Medium-High]
- (g) All substitutes, volunteers (except for those volunteers noted in subsection (e) of this section), and contractors must complete orientation before beginning the relevant duties. [Medium]

### **Helpful Information**

Substitute, volunteer, or contracted caregivers counted in the child/caregiver ratio are required to meet the same qualifications and minimum standards as other caregivers who have responsibility for the direct care and supervision of children in order to protect the health, safety, and well-being of children in care. The risk to children from an unqualified caregiver is the same whether the caregiver is a paid employee, substitute, volunteer, or contractor.

## Subchapter E, Child/Caregiver Ratios and Group Sizes

### Division 1, Ratios and Group Sizes at the Operation

#### **§744.1501. What is child/caregiver ratio?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 1, Ratios and Group Sizes at the Operation*

*September 2010*

- (a) The child/caregiver ratio is the maximum number of children one caregiver can be responsible for. [Medium-Low]
- (b) Each child must have a caregiver who is responsible for the child and who is aware of details of the child's habits, interests, and any special needs. [Medium-High]

#### **§744.1503. What is considered a group?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 1, Ratios and Group Sizes at the Operation*

*September 2010*

A group of children is defined by the number of children assigned to a specific caregiver or group of caregivers, occupying an individual classroom or well-defined physical space within a larger room. Each child in any group has two things in common with every other child in his group: the same caregiver(s) responsible for the child's basic needs and the same classroom or activity space. Generally, the group stays with the assigned caregiver(s) throughout the day and may move to different areas throughout the operation, indoors and out. The group may not mix freely with other children, unless specific criteria are met as specified in this subchapter. The number of children who may be in a group varies according to the age of the children and the number of caregivers as specified in this subchapter. [Medium-Low]

## **§744.1505. May I place more than one group of children in a large room?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*  
*Division 1, Ratios and Group Sizes at the Operation*  
*September 2010*

Yes. More than one group of children may occupy a room, provided the following conditions are met:

- (1)The room is divided so that groups are separated. For example, a group of 25 children and another group of 10 children may be cared for in the same room if the placement of shelves, accordion doors, low movable walls, or symbolic boundaries divide the area so that children in one group do not freely mix with children in another group [Medium];
- (2)Groups may move from one activity area to another within the room during the day, but individual children may not freely mingle between groups [Medium]; and
- (3)The total number of children must not routinely exceed the room capacity based on activity space. [Medium]

### **Helpful Information**

Examples of symbolic boundaries include a line on the floor, something hanging from the ceiling, a carpet or any distinguishing feature that is visible and understood by the children in care.

## **§744.1507. How do I determine the child/caregiver ratio?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 1, Ratios and Group Sizes at the Operation*

*September 2010*

In determining child/caregiver ratio, the following apply:

- (1) Child/caregiver ratio is based on the specified age of the children in the caregiver's group or the age of the youngest child in the group, depending on the activity and the number of children at the operation. [Medium-Low]
- (2) You may use the developmental or emotional age, rather than the chronological age, of a child with special care needs, if this is recommended by a health-care professional or other qualified professional and is documented in the child's record. [Medium-Low]
- (3) You must consider the skills of the caregiver and the needs of the individual children and the group when assigning a caregiver to a group of children. [Medium-Low]
- (4) You must include all children in care, including children related to the director and employees. [Medium]
- (5) In emergency situations, you may use employees of the operation who do not meet caregiver qualifications for a limited time while a substitute caregiver is being secured. The time must be no longer than is reasonably necessary to secure a qualified substitute caregiver. Emergency situations include, but are not limited to, illness, accident, or death. [Medium]
- (6) The total number of children in care at the operation and in care away from the operation, such as during a field trip, must never exceed the licensed capacity of the operation. [Medium]



## Division 2, Classroom Ratios and Group Sizes

### §744.1601. How many children may one caregiver supervise?

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 2, Classroom Ratios and Group Sizes*

*September 2010*

You must comply with the classroom ratios and group sizes in §746.1601 of this title (relating to How many children may one caregiver supervise?) and §746.1615 of this title (relating to May I adjust the child/caregiver ratio when I am opening and closing my child-care center?). [Medium-High]

#### Helpful Information

- Throughout this subchapter there are references to 40 TAC Chapter 746, Minimum Standards for Licensed Child-Care Centers. You may access this publication on the HHSC website at: <https://hhs.texas.gov/doing-business-hhs/provider-portals/protective-services-providers/child-care-licensing/minimum-standards>
- Research indicates direct, warm, social interactions between adults and children are more likely to occur with lower child/caregiver ratios. According to the AAP, caregivers must be recognized as performing a job for groups of children that parents would rarely be considered capable of handling alone.

## **§744.1603. How do I determine the specified age of the children in each group?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 2, Classroom Ratios and Group Sizes*

*September 2010*

Identify the specified age of the children in each group using this formula:

- (1) List all of the children in the group in order of their ages from youngest to oldest [Medium-Low];
- (2) Determine the total number of children in the group and divide this number by two. If the result is not a whole number but is .5, such as 6.5, round up to the next number, which is 7. This will be the core number of the group [Medium-Low]; and
- (3) Begin counting at the first or youngest child on your list and count down the list from youngest to oldest, until you reach the core number. The age of this child is the specified age of the children in this group. [Medium-Low]

## **§744.1605. If I have two or more caregivers with each group, what is the maximum number of children each caregiver may supervise?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 2, Classroom Ratios and Group Sizes*

*September 2010*

The maximum number of children two or more caregivers may supervise is limited by the maximum group size. [Medium-High]

## **§744.1607. What is the maximum group size?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 2, Classroom Ratios and Group Sizes*

*September 2010*

You must comply with §746.1609 of this title (relating to What is the maximum group size?). [Medium-High]

### **Helpful Information**

Research has shown that when caregivers have fewer children to supervise and the group size is limited it reduces the likelihood of injuries and illness in children and increases opportunities for positive interaction with children. Excessive numbers of young children increase the danger of high caregiver stress and loss of control.

## **§744.1609. Are there times when I may mix groups of children and exceed the maximum group size?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 2, Classroom Ratios and Group Sizes*

*September 2010*

(a) Yes. When 13 or more children are in care, you may mix groups for joint activities and exceed the maximum group size for limited times under the following conditions:

- (1) For children three years through four years old, for a maximum of 30 minutes [Medium];
- (2) For children five years old and older, for a maximum of 1 1/2 hours [Medium];
- (3) For mealtimes, field trips, outdoor play, and naptimes, for the length of that activity [Medium]; and
- (4) For activities that are fundamental to the core development of a skill, talent, ability, expertise, or proficiency that is the goal of skill instruction or training that is a core component of your operation's program, for the length of the activity. [Medium]

(b) The child/caregiver ratio must be met for each group and activity. [Medium-High]

### **Helpful Information**

During special activities when children are combined and the room capacity may be exceeded, consider whether the children are overcrowded or would be endangered in the event of an emergency requiring evacuation of the operation.

## **§744.1611. May I reduce the number of caregivers supervising children during naptime?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 2, Classroom Ratios and Group Sizes*

*September 2010*

(a) Yes. If 13 or more children are in care, you may reduce the child/caregiver ratio for children by 50% during naptime under the following conditions:

- (1) Groups of children using reduced ratio must be combined in a central sleeping location that safely accommodates naptime equipment [Medium-High];
- (2) Groups of children that cannot be combined in a central location due to space limitations must not use reduced ratios [Medium-High];
- (3) Caregivers with groups that cannot be combined must not be counted as additional caregivers in the building or in the naptime ratio;
- (4) If only one caregiver is required to supervise the naptime group, at least one other employee or caregiver must be present in the building [Medium-High];
- (5) If more than one caregiver(s) must supervise the naptime group, one additional employee or caregiver must be present in the building for every two caregivers supervising the naptime group [Medium-High];
- (6) Caregivers supervising during naptime must be physically present in the room or area in which children are napping and must be able to summon the additional employee(s) without leaving the room or area [Medium-High]; and
- (7) Other employees, such as the director or cook, who are not supervising a group of children may be counted as additional adults required in the building during naptime. [Medium-High]

(b)The following chart shows the 50% naptime ratio and the number of additional caregivers required in the building [Medium-High]:

<b>If the total number of caregivers required to supervise the combined groups before naptime is...</b>	<b>Then the number of caregivers needed to supervise groups combined in a central sleeping location is...</b>	<b>And the number of additional employees required in the building must be at least...</b>
10	5	3
9	5	3
8	4	2
7	4	2
6	3	2
5	3	2
4	2	1
3	2	1
2	1	1
1	1	1

### **§744.1613. Will I be given an opportunity to comply with changes in child/caregiver ratio and group sizes?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 2, Classroom Ratios and Group Sizes*

*September 2010*

You will have the same opportunity to comply with changes in child/caregiver ratios and group sizes as provided in Subchapter E of Chapter 746 of this title (relating to Child/Caregiver Ratios and Group Sizes), unless stated otherwise. This will also include any opportunity to comply with child/caregiver ratios relating to field trips, splashing/wading activities, and swimming activities. [Medium-High]

## Division 3, Ratios for Field Trips

### **§744.1701. Do I need additional caregivers when I take children away from the operation for field trips or walks?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 3, Ratios for Field Trips*

*September 2010*

You must comply with §746.1801 of this title (relating to Do I need additional caregivers when I take children away from the child-care center for field trips or walks?). [Medium-High]

#### **Helpful Information**

Field trips involve higher risk to children and require increased supervision by adults. Injuries and serious incidents are more likely to occur when a child's surroundings change or when there is a change in routine. When children are excited or busy playing in unfamiliar areas, they are likely to forget safety measures unless they are closely supervised.

### **§744.1705. If I provide transportation, how many caregivers must I have in the vehicle to supervise the children?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 3, Ratios for Field Trips*

*September 2010*

You must comply with classroom child/caregiver ratios when transporting children. The driver may be counted in this ratio if the driver meets caregiver qualifications. [Medium-High]

#### **Helpful Information**

Research indicates motor vehicle accidents are the leading cause of death in children in the United States. Additional adults are needed when transporting groups of younger children to free the driver from the distraction of supervising children while driving, and

<b>Helpful Information</b>
to assist in the evacuation and supervision of children in case of an accident or breakdown.

## Division 4, Ratios for Nighttime Care

### §744.1801. Must I have additional caregivers during nighttime care?

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 4, Ratios for Nighttime Care*

*September 2010*

No. Additional caregivers are not needed for the child/caregiver ratio for nighttime care, although naptime ratios must not be used during nighttime care. [Low]



## Division 5, Ratios for Water Activities

### **§744.1901. Must I have additional caregivers for splashing/wading activities?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 5, Ratios for Water Activities*

*September 2010*

You must comply with §746.2101 of this title (relating to Must I have additional caregivers for splashing/wading activities?). [Medium-High]

### **§744.1905. What are the child/caregiver ratios for swimming activities?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 5, Ratios for Water Activities*

*September 2010*

You must comply with §746.2105 of this title (relating to What are the child/caregiver ratios for swimming activities?). [High]

#### **Helpful Information**

Varying levels of children's comfort and skill in the water combined with the increased difficulty seeing children in the water requires closer supervision to reduce the risk of drowning.

### **§744.1907. Must a certified lifeguard be on duty when children are swimming in more than two feet of water?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 5, Ratios for Water Activities*

*September 2010*

Yes. When children are swimming in more than two feet of water, a certified lifeguard must be on duty at all times. [High]

## **§744.1909. May I count the certified lifeguard in the child/caregiver ratio?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 5, Ratios for Water Activities*

*September 2010*

- (a) You must not count the certified lifeguard in the child/caregiver ratio when people other than the children from your operation are swimming. [Medium-High]
- (b) If only children from your operation are swimming, you may count the certified lifeguard in the child/caregiver ratio, although the lifeguard must never be left alone with any of the children unless the lifeguard is also a qualified caregiver you employ at your operation. [Medium-High]

### **Helpful Information**

The lifeguard has the necessary skills to rescue a child in distress; however, being responsible for assisting and supervising children who are in the water at the same time may take away from their ability to react quickly in an emergency.

## **§744.1911. Must persons who are counted in the child/caregiver ratio during swimming activities know how to swim?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 5, Ratios for Water Activities*

*September 2010*

Yes. Each person included in the child/caregiver ratio for swimming in two feet or more of water must be able to swim and must be prepared to do so in an emergency. [High]

## **§744.1913. May I include volunteers or child-care employees who do not meet minimum qualifications for caregivers in the child/caregiver ratio for water activities?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 5, Ratios for Water Activities*

*September 2010*

Yes. To meet the child/caregiver ratio for splashing/wading and swimming activities, you may include adult volunteers and employees of your operation who do not meet the minimum qualifications for caregivers specified in Subchapter D of this chapter (relating to Personnel), provided that [Medium-High]:

- (1) You maintain at least the classroom child/caregiver ratios required in this subchapter with caregivers who do meet the minimum qualifications for caregivers [Medium-High];
- (2) All persons included in the ratios for water activities must be able to swim and must be prepared to do so in an emergency [High]; and
- (3) You ensure compliance with all other minimum standards, including, but not limited to, standards relating to supervision, discipline, and guidance. [High]

## **§744.1915. Must I have additional caregivers for sprinkler play?**

*Subchapter E, Child/Caregiver Ratios and Group Sizes*

*Division 5, Ratios for Water Activities*

*September 2010*

We do not require additional caregivers for sprinkler play; however, you must not leave a child alone with the sprinkler equipment. [Medium-High]

## Subchapter F, Developmental Activities and Equipment

### Division 1, Activities and Activity Plans

#### **§744.2001. What planned activities must caregivers provide for the children in their care?**

*Subchapter F, Developmental Activities and Equipment*

*Division 1, Activities and Activity Plans*

*March 2021*

- (a) Yes. Caregivers must ensure children receive individual attention and care including [Medium]:
  - (1) Flexible programming according to each child's age, interest, and abilities [Medium];
  - (2) Encouraging communication and expression of feelings in appropriate ways [Medium];
  - (3) Study time for those children who choose to work on homework assignments [Medium];
  - (4) Physical care routines appropriate to each child's developmental needs [Medium]; and
  - (5) A caregiver who is aware of the arrival and departure of each child, including dismissing children who ride the bus or walk home. [Medium]
- (b) You must ensure that children who need special care due to disabling or limiting conditions receive the care recommended by a health-care professional or qualified professionals affiliated with the local school district or early childhood intervention program. These basic care requirements must be documented and on file for review at the operation during your hours of operation. Activities must integrate all children with or without special care needs. You may need to adapt equipment and vary methods to ensure that you care for children with special needs in a natural environment. [Medium]

## Helpful Information

- A school-age child develops a strong secure sense of identity through positive experiences with adults and peers. Although school-age children are learning to accept personal responsibility and act independently, they continue to need the supervision and support of adults.
- Research has shown that school-age children benefit from an after-school care program that provides an enriching contrast to the formal school environment. Activities including team sports, cooking, art, dramatics, music, crafts and games allow them to explore new interests and relationships.
- Outdoor play provides for greater freedom and flexibility, fuller expression through loud talk and a greater range of active movement. Outdoor play also extends opportunities for large muscle development, social-emotional development and small muscle development by offering variety, challenge and complexity in ways that are not attainable in a confined indoor space.
- A child-care operation is considered a place of public accommodation under the Americans with Disabilities Act (ADA), Title III, because it holds itself out to the public as a business. There is additional information regarding ADA and resources online at <https://hhs.texas.gov/doing-business-hhs/provider-portals/protective-services-providers/child-care-licensing/child-day-care-provider/americans-disabilities-act-ada-title-iii-title-3-child-care-operations-faq>

## **§744.2002. What additional activities must caregivers provide when a child is in care for more than five consecutive hours in a day?**

*Subchapter F, Developmental Activities and Equipment*

*Division 1, Activities and Activity Plans*

*March 2021*

You must include the following activities for programs where you anticipate a child will be in care five or more consecutive hours in a day.

- (1) Outdoor play in which the child makes use of both small and large muscles, as weather permits [Medium];
- (2) A balance of active and quiet play, including group and individual activities [Medium];

- (3) Opportunities for active play both indoors and outdoors. Examples include active games such as tag and Simon Says, dancing and creative movement to music and singing, simple games and dramatic or imaginary play that encourages running, stretching, climbing, and walking [Medium];
- (4) Child-initiated activities where:
  - (A) The equipment, materials, and supplies are within reach of the child [Medium]; and
  - (B) The child chooses the activity on the child's own initiative [Medium];
- (5) Caregiver-initiated activities that the caregiver directs or chooses, at least two of which must promote movement [Medium];
- (6) Regular meal and snack times as specified in Subchapter J of this Chapter (relating to Nutrition and Food Service) [Medium];
- (7) Supervised naptimes or rest times [Medium];
- (8) Sufficient time for activities and routines so that the child can progress at the child's own developmental rate [Medium]; and
- (9) No long waiting periods between activities or prolonged periods during which a child stands or sits. [Medium]

## **§744.2003. What are the additional requirements if my operation cares for a child under the age of five?**

*Subchapter F, Developmental Activities and Equipment*

*Division 1, Activities and Activity Plans*

*March 2021*

If your operation cares for children under the age of five, you must:

- (1) Have written procedures that includes the following [Medium]:
  - (A) How caregivers will supervise the child under the age of five while transitioning to and from restrooms, indoor and outdoor activity spaces, and spaces shared by other persons outside of the operation [Medium-High];
  - (B) How caregivers will meet the unique care needs of the child. [Medium];

- (C) How caregivers will meet the outdoor play and physical activity needs in §744.2002(1) and (3) of this division (relating to What additional activities must caregivers provide when a child is in care for more than five consecutive hours in a day?), including: [Medium];
- (i) A minimum of two opportunities for outdoor play, weather permitting, for at least 60 total minutes when a child is in care for eight hours, although you may prorate this requirement if a child is in care for less than eight hours [Medium]; and
  - (ii) A minimum of 90 minutes of moderate to vigorous active play when a child is in care for eight hours, although you may prorate this requirement if a child is in care for less than eight hours [Medium];
- (D) Under what circumstances the child will be mixing with older children in the operation; and [Medium]
- (E) Any modifications to space or equipment that will be made to accommodate the child. [Medium]
- (2) Have written policies that address the promotion of indoor and outdoor physical activity that are consistent with this division. [Medium] Your policies must include:
- (A) The benefits of physical activity and outdoor play [Medium];
  - (B) The duration of physical activity at your operation, both indoor and outdoor [Medium];
  - (C) The type of physical activity (structured and unstructured) that children may engage in at your operation [Medium];
  - (D) Each setting in which your physical activity program will take place [Medium];
  - (E) The recommended clothing and footwear that will allow a child to participate freely and safely in physical activities [Medium]; and
  - (F) A plan to ensure physical activity occurs on days when extreme weather conditions prohibit or limit outdoor play. [Medium]
- (3) Follow the policies and procedures and make the policies and procedures available for review by [Medium]:

- (A)Licensing upon request during your hours of operation [Medium]; and
- (B)Parents at enrollment and as needed thereafter. [Medium]

### Helpful Information

- Pre-kindergarten age children have different care needs from school-age children. Younger children may require additional assistance from caregivers in such areas as:
  - Self-care activities such as toileting and hand washing;
  - Transitioning from one activity to another;
  - Saying goodbye to a parent; and
  - Communicating with peers.
- Regarding paragraph (1)(C)(i) and outdoor play:
  - You may divide the total minutes of outdoor play into shorter time frames that total at least 60 minutes;
  - You may accommodate weather and air quality by adjusting the scheduled outdoor play, the length of time outdoors, and child's clothing;
  - When you shorten or cancel outdoor play to accommodate weather or air quality, you should increase the time of indoor physical activity, so the total amount of physical activity remains the same
- Regarding paragraph (1)(C)(ii) and active play: opportunities for active play may overlap with outdoor play and do not need to be counted separately (e.g. 30 minutes of active outdoor play that includes moderate to vigorous physical activity may be counted toward the required 90 minutes of active play).
- When prorating outdoor play and active play based on the total hours a child is in care, allow 20 minutes of outdoor/active play for every three hours that the child is in the program.
- Regarding paragraph (2)(A), additional resources regarding physical activity are available in [Caring for Our Children: National Health and Safety Performance Standards, 4th Edition](#) and in the Licensing Technical Assistance Library.

## §744.2005. What written activity plans must caregivers follow?

*Subchapter F, Developmental Activities and Equipment*

*Division 1, Activities and Activity Plans*

*March 2021*

- (a) For programs with a child whom you anticipate to be in care for five or more consecutive hours in a day, you must have a written activity plan that complies with §744.2002 of this division (relating to What additional activities must caregivers provide when a child is in care for more than five consecutive hours in a day?) and



§744.2003(1)(C) of this division (relating to What are the additional requirements if my operation cares for a child under the age of five?). [Medium]

(b) A written activity plan must:

- (1) Identify the age group the activity plan is designed for and list the dates (daily, weekly, or monthly) the plan covers [Medium];
- (2) Outline the daily routines and specific activities for each group and the approximate times those activities will occur [Medium];
- (3) Be followed by the caregiver or caregivers responsible for the relevant group of children [Medium]; and
- (4) Be inclusive for all children in the group regardless of special care needs. [Medium]

(c) A written activity plan may include one or more screen time activities specified in §744.2007 of this division (relating to May I use a screen time activity with a child?), if you also include alternative activities for children who do not want to participate. The activity plan must be inclusive for all children in the group regardless of disabling or limiting conditions. [Medium]

#### Helpful Information

- Planning daily activities ensures the children have a variety of activities that meet their developmental needs. A written plan helps to clarify for parents the services an operation provides and also provides the caregiver with a guideline to follow.

## §744.2007. May I use a screen time activity with a child?

*Subchapter F, Developmental Activities and Equipment*

*Division 1, Activities and Activity Plans*

*March 2021*

(a) You may use a screen time activity to supplement, but not to replace, an activity for children described in §744.2001 of this division (relating to What planned activities must caregivers provide for children in their care?) and §744.2002 of this division (relating to What additional activities must caregivers provide when a child is in care for more than five consecutive hours in a day?). [Medium]

(b) If you use a screen time activity for a child at the operation, you must ensure that the activity:

- (1) Is related to the planned activities that meet educational goals [Medium];
- (2) Is age-appropriate [Medium];
- (3) Does not exceed one hour per day [Medium];
- (4) Is not used during mealtime, snack times, nap times, or rest times [Medium];
- (5) Does not include advertising or violence [Medium]; and
- (6) Is turned off when not in use. Are age-appropriate [Medium]; and

(c) A school-age child may use screen time without restriction for homework. [Medium]

### Helpful Information

- The requirements for screen time activities are consistent with the [Caring for Our Children: National Health and Safety Performance Standards, 4th Edition](#).
- Excessive media use has been associated with lags in achievement of knowledge and skills, as well as negative impacts on sleep, weight, and social and emotional health.
- Children should view screen time activities with an adult who can help the children apply what they are learning to the world around them.
- Research indicates that screen time is most appropriate and offers the most benefit when children are actively engaged with the content they are viewing. Labeling objects, identifying people on screen, and asking questions are all active viewing strategies that maximize children's learning during screen time.
- Caregivers serve as role models and should not be using digital media that is not directly involved in the care of children. Also see §744.1203(6)(D), which does not allow caregivers to use personal electronic devices, such as cell phones, tablets, and video games that are not directly involved in the teaching, care, or supervision of children in care.
- Regarding paragraph (b)(3), the one hour time limit on screen time does not apply to field trips away from the operation.

## Division 2, Physical Space and Equipment

### §744.2051. What physical space and equipment must I provide for children in my care?

*Subchapter F, Developmental Activities and Equipment*

*Division 2, Physical Space and Equipment*

*September 2010*

Physical space and equipment for children must include:

- (1) Space for furnishings and activities without limiting children's movement [Medium];
- (2) Space where children can be supervised while they participate in individual activities [Medium];
- (3) Space for quiet time to do homework, if applicable [Medium];
- (4) Workspace to do homework and table-top activities, if applicable [Medium];
- (5) Tables and chairs that are safe, easy to clean, and of a height and size appropriate for each age group in care [Medium];
- (6) Age-appropriate nap or rest equipment for children who are in care more than five consecutive hours per day or whose physical needs otherwise require nap or rest [Medium];
- (7) Containers or low shelving available so items children can safely use without direct supervision are accessible to children [Medium]; and
- (8) A system for storing each child's belongings, which allows a child to easily recognize and retrieve his belongings. [Medium]

#### Helpful Information

NAEYC recommends that a learning environment that supports child initiated activities and individual learning styles fosters confidence and curiosity in the child.

## Subchapter G, Discipline and Guidance

### §744.2103. What methods of discipline and guidance may a caregiver use?

*Subchapter G, Discipline and Guidance*

*April 2017*

(a) Each disciplinary measure must:

- (1) Be consistent with your policies and procedures [Medium];
- (2) Not be physically or emotionally damaging to the child [Medium-High];
- (3) Be appropriate to the child's age and level of understanding [Medium-High];  
and
- (4) Be appropriate to the incident and severity of the behavior demonstrated.  
[Medium-High]

(b) A caregiver may only use positive methods of discipline and guidance that encourages self-esteem, self-control, and self-direction, including the following [Medium-High]:

- (1) Using praise and encouragement of good behavior instead of focusing only upon unacceptable behavior [Medium-High];
- (2) Reminding a child of behavior expectations daily by using clear, positive statements [Medium-High];
- (3) Redirecting behavior using positive statements [Medium-High]; and
- (4) Using brief supervised separation or time out from the group, when appropriate for the child's age and development, which is limited to no more than one minute per year of the child's age. [Medium]

#### Helpful Information

- Research has shown that positive guidance teaches children skills which help them get along in their physical and social environment. The goal is to develop personal standards in self-discipline, not to enforce a set of inflexible rules.
- Giving children understandable guidelines and re-directing their behavior helps them to develop internal control of their actions and encourages acceptable behavior.

## **§744.2105. What types of discipline and guidance or punishment are prohibited?**

*Subchapter G, Discipline and Guidance*

*April 2017*

There must be no harsh, cruel, or unusual treatment of any child. The following types of discipline and guidance are prohibited [High]:

- (1) Corporal punishment or threats of corporal punishment [High];
- (2) Punishment associated with food, naps, or toilet training [High];
- (3) Pinching, shaking, or biting a child [High];
- (4) Hitting a child with a hand or instrument [High];
- (5) Putting anything in or on a child's mouth [High];
- (6) Humiliating, ridiculing, rejecting, or yelling at a child [High];
- (7) Subjecting a child to harsh, abusive, or profane language [High]
- (8) Placing a child in a locked or dark room, bathroom, or closet [High]; and
- (9) Withholding active play or keeping a child inside as a consequence for behavior, unless the child is exhibiting behavior during active play that requires a brief supervised separation or time out that is consistent with §744.2103(b)(4) of this subchapter (relating to What methods of discipline and guidance may a caregiver use?) [High]; and
- (10) Requiring a child to remain silent or inactive for inappropriately long periods of time for the child's age. [High]

## Helpful Information

- Child development research supports that physical punishment such as pinching, shaking, or hitting children teaches them that hitting or hurting others is an acceptable way to control unwanted behavior or get what they want.
- Children will also mimic adults who demonstrate loud or violent behavior.
- Rapping, thumping, popping, yanking, and flicking a child are all examples of corporal punishment.
- Regarding paragraph (9), you must never withhold active play from a child who misbehaves (i.e., keeping a child indoors with another caregiver while the rest of the children go outside or making a child sit out of active play in the afternoon for a behavior that occurred in the morning). However, if a child is exhibiting poor behavior during active play, you may separate the child from the group, as described in §744.2103(b)(4), to allow the child to settle down before resuming cooperative play or activities.

### **§744.2107. May my employees discipline their own children who are in care at my operation?**

*Subchapter G, Discipline and Guidance*

*September 2010*

Yes, during operating hours an employee may discipline the employee's own child as long as the employee does not violate the requirements specified in this subchapter.

[Medium-High]

### **§744.2109. May I use disciplinary measures that are fundamental to teaching a skill, talent, ability, expertise, or proficiency?**

*Subchapter G, Discipline and Guidance*

*September 2010*

You may use disciplinary measures for teaching a skill, talent, ability, expertise, or proficiency that is the goal of skill instruction or training that is a core component of your operation's program so long as [Medium-High]:

(1) The measures are considered commonly accepted teaching or training techniques

[Medium-High];

(2) You provide a description of the training and disciplinary measures in writing to parents and employees and include the following information [Medium]:

- (A)The disciplinary measures that may be used, such as physical exercise or sparring used in martial arts programs [Medium];
  - (B)What behaviors would warrant the use of these measures [Medium]; and
  - (C)The maximum amount of time the measures would be imposed [Medium];
- (3)Inform parents that they have the right to ask for additional information [Medium]; and
- (4) Ensure that the disciplinary measures used are not considered abuse, neglect, or exploitation as specified in the Texas Family Code §261.401 and Chapter 745, Subchapter K, Division 5, of this title (relating to Abuse and Neglect). [High]

## Subchapter H, Naptime

### Division 1, Naptime

#### §744.2201. Must children have a naptime every day?

*Subchapter H, Naptime*

*Division 1, Naptime*

*September 2010*

You must provide a supervised nap, or a period of rest for those children too old to nap, for all children who are in care five or more consecutive hours, or according to the child's individual physical needs. You may provide a sleep or rest period for each child who attends the program for fewer than five hours and whose individual physical needs call for a rest period while the child is in care. [Medium-High]

#### Helpful Information

Naps and rest time for school-age children will vary with each child's individual needs. Children in full-day care benefit from resting or napping during their long day. A rest period may be reading books, listening to soft music or books on tape.

#### §744.2203. How long may the nap and rest time last each day?

*Subchapter H, Naptime*

*Division 1, Naptime*

*September 2010*

The nap or rest period must not exceed three hours. [Medium]

#### §744.2205. Are children required to sleep during this time?

*Subchapter H, Naptime Division 1, Naptime*

*September 2010*

No. You must not force a child to sleep or put anything in or on a child's head or body to force the child to rest or sleep. [Medium]



## **§744.2207. Must I provide an alternative activity for those children who cannot sleep?**

*Subchapter H, Naptime*

*Division 1, Naptime*

*April 2017*

Yes. You must allow each child who is awake after resting or sleeping for 30 minutes to participate in an alternative, quiet activity until the nap/rest time is over for the other children. [Medium]

## **§744.2209. Must I arrange the napping equipment in a specific manner?**

*Subchapter H, Naptime*

*Division 1, Naptime*

*September 2010*

Napping equipment must:

- (1) Not block entrances or exits to the area [Medium-High];
- (2) Not be set up during other activities or left in place to interfere with children's activity space [Medium];
- (3) Be arranged so that each child and caregiver has access to a walkway without having to walk on or over the sleep or rest equipment of other children [Medium-High]; and
- (4) Be arranged so the caregiver can adequately supervise all of the children in the group as specified in §744.1205 of this title (relating to What does Licensing mean by "supervise children at all times"?). [High]

## **§744.2211. May I lower the lighting in the room while children are sleeping?**

*Subchapter H, Naptime*

*Division 1, Naptime*

*April 2017*

Yes. You may lower the lighting, provided there is adequate lighting to allow visual supervision of all children in the group at all times. Lighting in a room is adequate if a person's eyes do not need to adjust for the person to be able to see upon entering the room. [Medium-High]

## **Division 2, Nighttime Care**

## **§744.2251. May I provide nighttime care to children at my operation?**

*Subchapter H, Naptime*

*Division 2, Nighttime Care*

*September 2010*

If your operation offers nighttime care, you must follow the rules specified in Chapter 746, Subchapter P of this title (relating to Nighttime Care). [Medium]

## Subchapter I, Field Trips

### **§744.2301. May I take children away from my operation for field trips?**

*Subchapter I, Field Trips*

*October 2018*

Yes. You must ensure the safety of all children on field trips or excursions and during any transportation provided by the operation. Anytime you take a child on a field trip, you must comply with each of the following requirements [High]:

- (1) You must have signed permission from the parent to take a child on a field trip, including permission to transport the child, if applicable [Medium-High];
- (2) One or more caregivers must carry emergency medical consent forms and emergency contact information for each child on the field trip [Medium-High];
- (3) Caregivers must have a written list of all children on the field trip and must check the list frequently to account for the presence of all children [High];
- (4) Caregivers must have a first-aid kit immediately available on field trips [High];
- (5) Caregivers must have a copy of a child's food allergy emergency plan and allergy medications, if applicable [Medium-High];
- (6) Each child must wear a shirt, nametag, or other identification listing the name of the operation and the operation's telephone number [Medium-High];
- (7) Each caregiver must be easily identifiable by all children on the field trip by wearing a hat, operation tee-shirt, brightly-colored clothes, or other easily spotted identification [Medium-High];
- (8) Each caregiver supervising a field trip must have transportation available, a communication device such as a cellular phone or two-way radio available, or an alternate plan for transportation at the field-trip location in case of emergency [Medium-High]; and
- (9) One or more caregivers per group of children must have current training in pediatric first aid and pediatric CPR. [High]

### Helpful Information

- Regarding paragraph (3):
  - Conducting multiple name to face checks while away from the operation will help ensure a child has not wandered off, gotten lost, or been left behind;
  - Conducting multiple name to face checks while away from the operation will alert staff to begin an immediate search if a child is missing; and
  - Caregivers should record the count on an attendance sheet or on a pocket card, along with the time the count occurred.
  - For child/caregiver ratios and groups sizes, see subchapter E of this chapter.

## **§744.2303. Must I notify parents before I take children away from the operation on a field trip?**

*Subchapter I, Field Trips*

*September 2010*

Yes. You must notify the parent of each child who will be on the field trip, indicating when and where the child will be going, and when the child is expected to return to the operation. The notice must be posted at least 48 hours in advance of a field trip. You must post the field trip notice in a prominent place where parents and others may view it. The notice must remain posted until all children on the field trip have returned to the operation. [Medium-High]

## Subchapter J, Nutrition and Food Service

### **§744.2401. What are the basic requirements for meal and snack times?**

*Subchapter J, Nutrition and Food Service*

*March 2021*

- (a) You must serve all children regular meals and morning and afternoon snacks as specified in this subchapter. [Medium-High]
- (b) The meals and snacks must follow the meal patterns established by the U.S. Department of Agriculture (USDA) Child and Adult Care Food Program (CACFP) that is administered by the Texas Department of Agriculture. You must follow these patterns regardless of whether you are participating in the program for reimbursement. [Medium-High]
- (c) If you serve breakfast, you do not have to serve a morning snack.
- (d) A child must not go more than three hours without a meal or snack being offered, unless the child is sleeping. [Medium-High]
- (e) You must serve enough food to allow children a second serving from the vegetable, fruit, grain, and milk group. [Medium]
- (f) You must ensure a supply of drinking water is readily available to each child at every snack, mealtime, and after active play and is served in a safe and sanitary manner. [Medium-High]
- (g) You must not serve beverages with added sugars, such as carbonated beverages, fruit punch, or sweetened milk. [Medium]
- (h) You must not use food as a reward. [Medium-High]
- (i) You must not serve a child a food identified on the child's food allergy emergency plan as specified in §744.2667 of this chapter (relating to What is a food allergy emergency plan?). [Medium-High]

## Helpful Information

- You can find the CACFP meal and snack patterns at <https://www.fns.usda.gov/cacfp/meals-and-snacks>.
- To help ensure that grains are whole grain-rich, look closely at the ingredient list to make sure a whole grain is listed as the first ingredient, or second after water.
- Research indicates serving drinking water to children ensures they are properly hydrated and facilitates reducing the intake of extra calories from nutrient poor foods and drinks, which are associated with weight gain and obesity.
- Water should not be a substitute for milk at meals or snacks where milk is a required component. It is appropriate to require children to first drink the milk before serving themselves water.
- Beverages with added sugars should be avoided because they can contribute to child obesity, tooth decay, and poor nutrition. However it is acceptable to serve beverages with added sugars for a special occasion such as a holiday or birthday celebration.
- Your operation may only use pasteurized full-strength juice to meet the vegetable or fruit requirement at one meal or snack per day.
- Caregivers should encourage children to sample a variety of food of different colors and textures.

## §744.2403. How often must I feed a child in my care?

*Subchapter J, Nutrition and Food Service*

*March 2021*

You must follow the guidelines in Figure 26 TAC §744.2403 when determining how often to feed a child in your care. [Medium-High]

**Figure: 26 TAC §744.2403**

<b>If a child is in care:</b>	<b>You must offer the child at least this amount of food:</b>
(1) Less than four hours	One snack.
(2) Four to five hours	One meal.
(3) Six to eight hours	One meal and one snack.

<b>If a child is in care:</b>	<b>You must offer the child at least this amount of food:</b>
(4) More than eight hours	(A) Two meals and one snack; or (B) One meal and two snacks.
(5) During the nighttime	Depending on the time child arrives and leaves:  (A) An evening meal and breakfast;  (B) A bedtime snack and breakfast; or  (C) An evening meal, a bedtime snack, and breakfast.

<b>Helpful Information</b>
<ul style="list-style-type: none"> <li>Well-balanced meals provide the food children need to grow, think, fight infection, and fuel their bodies.</li> <li>The American Academy of Pediatrics (AAP) affirms that, since young children eat in small feedings and a child's appetite and interest in food may vary from one meal or snack to the next, children need to be fed often. As a result, snacks often become a significant part of a child's daily food intake.</li> </ul>

## **§744.2409. May parents provide meals and snacks for their child instead of my operation providing them?**

*Subchapter J, Nutrition and Food Service*

*March 2021*

- (a) Yes. However, your enrollment agreement, or an addendum to the agreement, signed by the parent must include a statement that the parent: **[Medium]**
- (1) Is choosing to provide the child's meals and snacks from home **[Medium]**; and
  - (2) Understands the operation is not responsible for its nutritional value or for meeting the child's daily food needs. **[Medium]**
- (b) If the parent provides a meal but not a snack, you are responsible for providing a snack as specified in this subchapter. **[Medium]**

(c) You must provide safe and proper storage and service of the individual meals and snacks provided by parents. [Medium]

(d) Snacks provided by a parent must not be shared with other children, unless:

(1) A parent is providing baked goods for a celebration or party being held at the operation [Medium]; and

(2) You ensure that the shared snacks meet the needs of children who require special diets. [Medium]

### Helpful Information

- When a parent provides the child's meals and snacks from home, it is important to share information with the parents on the nutritional value of foods, sample menus, information on food allergies, and choking hazards, such as:
  - Sample menu items, introducing new foods, MyPlate materials, understanding nutrition labels, and more can be found at [www.fns.usda.gov/tn/myplate](http://www.fns.usda.gov/tn/myplate); and
  - Resources on choking foods, food allergies, nutrition for young children, and other information can be found or downloaded from the Licensing Technical Assistance Library.
- A child with food allergies is at risk when eating foods that have not been prepared or served by the child's own parent or a program employee who has knowledge of the food ingredients and the child's needs.

## **§744.2411. What are the requirements for a child who requires a special diet or does not want to eat foods the operation serves?**

*Subchapter J, Nutrition and Food Service*

*March 2021*

(a) To serve a child a therapeutic or special diet, you must:

(1) Have written approval from:

(A) A physician or health-care professional with prescriptive authority if the diet relates to a disability that restricts the child's diet [Medium-High]; or

(B) A health-care professional or a registered or licensed dietitian if the diet does not relate to a disability that restricts the child's diet [Medium-High];

(2) Maintain the written approval in the child's record [Medium-High]; and

(3) Give the information to all employees preparing and serving food. [Medium-High]



- (b) You must discuss recurring eating problems with the child's parent. [Medium]
- (c) You may encourage but must not force children to eat. [Medium]
- (d) You must not serve nutrient concentrates and supplements such as protein powders, liquid protein, vitamins, minerals, and other nonfood substances without written instructions as required in paragraph (a)(1) of this section. [Medium-High]

#### Helpful Information

An operation may serve meat alternatives to accommodate vegetarian diets without special authorization from a health-care professional or dietician. The CACFP offers guidance on how to include meat alternatives as part of the meal pattern.

### **§744.2413. Can I make substitutions and/or rotate the daily menus?**

*Subchapter J, Nutrition and Food Service*

*April 2017*

Yes:

- (1) Substitutions of comparable food value may be made to the daily menu, but you must keep a record of any substitutions [Medium]; and
- (2) You may rotate menus, but you must keep a record of which menu was used for each date. [Medium]

### **§744.2419. What general requirements apply to food service and preparation?**

*Subchapter J, Nutrition and Food Service*

*September 2010*

All food and drinks must be of safe quality and must be stored, prepared, distributed, and served under sanitary and safe conditions, including but not limited to the following [Medium-High]:

- (1) You must sanitize food service equipment, dishes, and utensils after each use [Medium-High];

- (2) If your operation lacks adequate facilities for sanitizing dishes and utensils, you must use only disposable, single-use items [Medium-High];
- (3) You must wash re-useable napkins and tablecloths after each use [Medium];
- (4) You must discard single-service napkins, dishes, and utensils after use [Medium-High];
- (5) Caregivers with open wounds and/or any injury that inhibits hand washing, such as casts, bandages, or braces, must not prepare food [Medium-High];
- (6) You must serve children's food on plates or napkins, and you must not place food on a bare table or eating surface, which includes the floor [Medium-High];
- (7) You must cover all food stored in the refrigerator [Medium-High];
- (8) When meals are prepared at the operation, the food preparation area must be separated from the eating, play, and bathroom areas. You must not use the food preparation area as a passageway while food is being prepared [Medium-High]; and
- (9) You must not store poisonous or toxic materials and cleaning supplies with food. [Medium-High]

### Helpful Information

Tables are often used for many purposes in child care. Although the tables should be washed before mealtime, they will still bear a heavier load of infecting organisms than plates or sanitized food holders.

## §744.2421. Must I serve meals family style?

*Subchapter J, Nutrition and Food Service*

*September 2010*

- (a) No, you do not have to use family-style meal service, although all meals and snack times must:
- (1) Be unhurried [Medium]; and
  - (2) Allow children to feed themselves according to their developmental level [Medium]; and
  - (3) Include adult supervision of children. [Medium-High]
- (b) If meals and snacks are served family style, caregivers must supervise children to prevent cross-contamination of the food. [Medium]

### Helpful Information

- Mealtime is a great opportunity for children to learn about new food, develop new motor skills, increase their dexterity, and develop language and social skills through conversation. Conversation at the table adds to the pleasant mealtime environment and provides opportunities for informal modeling of appropriate eating behaviors, communication about eating, and imparting nutrition learning experiences.
- The presence of adult caregivers during mealtime:
  - Helps prevent behaviors that increase risk, such as fighting, children feeding each other, children stuffing food into the mouth, etc.;
  - Ensures that children do not increase their risk of choking by eating while talking, crying, laughing, or playing; and
  - Offers an opportunity for caregivers to model appropriate dining etiquette.

## §744.2423. Are children allowed to use toothbrushes after meal and snack times?

*Subchapter J, Nutrition and Food Service*

*September 2010*

- (a) Yes, although toothbrushes and tooth powders or pastes provided for each child's individual use must be:
- (1) Labeled with the child's full name [Medium];

- (2) Stored out of children's reach when not in use [Medium]; and
  - (3) Stored in a manner that prevents the toothbrushes from touching each other during storage. [Medium]
- (b) Children must have adult supervision while brushing their teeth. [Medium]

## Subchapter K, Health Practices

### Division 1, Environmental Health

#### **§744.2501. Must my operation have an annual sanitation inspection?**

*Subchapter K, Health Practices*

*Division 1, Environmental Health*

*April 2017*

- (a) Your operation must have a sanitation inspection before we issue your initial permit and at least once every 12 months, unless your operation is located in a public school facility operated by the local independent school district. [Medium-High]
- (b) If an inspection is required, a local sanitation official must conduct the inspection. [Medium-High]
- (c) If an inspection is not available from a local sanitation official, you must:
  - (1) Obtain documentation from a local sanitation official or county judge stating that an inspection is not available [Medium-High]; and
  - (2) Maintain this documentation at the operation and make it available to us upon request. [Medium-High]

#### **§744.2503. How do I document that a sanitation inspection has been completed?**

*Subchapter K, Health Practices*

*Division 1, Environmental Health*

*September 2010*

If required, you must keep a copy of the most recent sanitation report, letter, or checklist at the operation during hours of operation to verify the inspection date and findings. The report must include the name and telephone number of the inspector. [Medium-High]

## §744.2505. Do I have to make corrections called for in the report?

*Subchapter K, Health Practices*

*Division 1, Environmental Health*

*April 2017*

Yes, you must comply with corrections, restrictions, or conditions specified by the inspector in the sanitation report, letter, or checklist. [Medium-High]

### Helpful Information

The sanitation inspector has greater expertise in how long it should take to make the correction and can balance this with the risk to children.

## §744.2507. What steps must I take to ensure a healthy environment for children at my operation?

*Subchapter K, Health Practices*

*Division 1, Environmental Health*

*September 2016*

You must clean, repair, and maintain the building, grounds, and equipment to protect the health of the children. This includes, but is not limited to [Medium-High]:

- (1) Machine washing used cloth toys at least weekly and when contaminated [Medium-High];
- (2) Machine washing used linens at least weekly, and when soiled or before a different child uses them [Medium-High];
- (3) Sanitizing sleeping and rest equipment before a different child uses it and when soiled [Medium-High];
- (4) Maintaining sand boxes and sand tables in a sanitary manner [Medium-High];
- (5) Making all garbage inaccessible to children and managing it to keep the operation inside and outside, free of insects, rodents, and offensive odors, and disposing of it according to local and state requirements [Medium-High];
- (6) Keeping all floors, ceilings, and walls in good repair and clean [Medium-High];
- (7) Ensuring that all paints used at the operation are lead-free [Medium-High];

- (8) Keeping all parts of the operation used by children well heated, lighted, and ventilated [Medium-High];
- (9) Sanitizing table tops, furniture, and other similar equipment used by children when soiled or contaminated with matter such as food or bodily secretions [Medium-High];
- (10) Clearly marking cleaning supplies and other toxic materials and keeping them separate from food and inaccessible to children [Medium-High]; and
- (11) Using, storing, and disposing of hazardous materials as recommended by the manufacturer. [Medium-High]

### Helpful Information

- Research supports preventive steps to help limit the spread of infections, such as regular and proper hand washing, ventilating rooms regularly with lots of fresh air, and establishing cleaning routines. Germs have difficulty growing in clean, dry and well- ventilated environments.
- Contamination of toys and other objects in the room contributes to the transmission of diseases and germs in operations. Providing enough toys to rotate through the cleaning process allows children to stay in active play while maintaining a healthy environment.

## **§744.2513. May I use a dishwasher or washing machine to sanitize items at my operation?**

*Subchapter K, Health Practices*

*Division 1, Environmental Health*

*September 2010*

Items that may be washed in a dishwasher or hot cycle of a washing machine which runs at a temperature of 160 degrees Fahrenheit or higher for five or more minutes do not need additional disinfecting, because these machines use water that is hot enough, for long enough, to kill most germs. [Medium]

## §744.2515. When must employees wash their hands?

*Subchapter K, Health Practices*

*Division 1, Environmental Health*

*April 2017*

Employees must wash their hands:

- (1) Before eating or handling food or medication [Medium-High];
- (2) Before feeding a child [Medium-High];
- (3) After arriving at the operation [Medium-High];
- (4) After assisting a child with toileting [Medium-High];
- (5) After personal toileting [Medium-High];
- (6) After handling or cleaning bodily fluids, such as after tending sores and wiping noses, mouths, or bottoms [Medium-High];
- (7) After handling or feeding animals [Medium-High];
- (8) After outdoor activities [Medium-High];
- (9) After handling raw food products [Medium-High];
- (10) After eating, drinking, or smoking [Medium-High];
- (11) After using any cleaners or toxic chemicals [Medium-High]; and
- (12) After removing gloves. [Medium-High]

### Helpful Information

When hand washing and cleaning routines are modeled, the children learn good health and safety practices.



## §744.2517. When must children wash their hands?

*Subchapter K, Health Practices*

*Division 1, Environmental Health*

*September 2010*

Children must wash their hands:

- (1) Before eating [Medium-High];
- (2) Before playing in a water play table [Medium-High];
- (3) After toileting [Medium-High];
- (4) After outdoor activities [Medium-High];
- (5) After playing in sand [Medium-High];
- (6) After feeding or touching animals [Medium-High]; and
- (7) Any other time that the caregiver has reason to believe the child has come in contact with substances that could be harmful to the child. [Medium-High]

### Helpful Information

It is a best practice to require all children to wash their hands immediately upon entering an operation or the child's first room. It is also a best practice to require all parents visiting the operation to wash their hands upon entering the operation or their child's room. Studies have shown an increase in overall health in an operation when programs eliminate the transmission of germs from the home environment to the operation by requiring hand hygiene for all entering the operation.

## §744.2519. How must children and employees wash their hands?

*Subchapter K, Health Practices*

*Division 1, Environmental Health*

*April 2017*

Children and employees must wash their hands with soap and running water. [Medium-High]

### Helpful Information

- Research has shown the single most effective practice that prevents the spread of germs in the child-care setting is good hand washing by caregivers and children.
- Rubbing hands together under running water is the most important part of washing away infectious germs. Deficiencies in hand washing, including sharing basins of water, have contributed to many outbreaks of diarrhea among children and caregivers in child-care settings.
- The Centers for Disease Control (CDC) recommends these hand washing steps:
  - Wet your hands with clean running water and apply soap;
  - Rub your hands together to make lather and scrub them well, and be sure to scrub the backs of your hands, between your fingers, and under your nails;
  - Continue rubbing your hands for at least 20 seconds (tip: hum the “Happy Birthday” song twice);
  - Rinse your hands well under running water;
  - Dry your hands using a clean towel or air dry; and
  - Use a paper towel to turn off the faucet.

## §744.2520. May I use hand sanitizer as a substitute for washing hands?

*Subchapter K, Health Practices*

*Division 1, Environmental Health*

*April 2017*

You may use hand sanitizers as a substitute for washing hands if all of the following conditions are met:

- (1) You do not use hand sanitizers to wash hands that are visibly dirty or greasy or have chemicals on them, unless you are away from the classroom and soap and water are not available for hand washing [Medium-High];
- (2) You follow the labelling instructions for the appropriate amount to be used and for how long the hand sanitizer needs to remain on the skin surface to be effective [High];
- (3) Children have adult supervision when using hand sanitizers [Medium-High]; and
- (4) You store hand sanitizers out of the reach of children when not in use. [Medium-High]

### Helpful Information

- The use of hand sanitizers does not substitute for hand washing in the group care setting.
- Supervision of children is required to monitor the effective use of hand sanitizers and to avoid potential ingestion or inadvertent contact with a child's eyes, mouth, or nose.

## **§744.2521. Must my operation have hot water for hand washing?**

*Subchapter K, Health Practices*

*Division 1, Environmental Health*

*September 2010*

No. We do not require you to have hot water for hand washing. However, if hot water is accessible to the children, a thermostat must control it so that the water temperature is no higher than 120 degrees Fahrenheit. [Medium-High]

### **Helpful Information**

- Although hot water is not required, adults and children are more likely to wash their hands when the running water can be adjusted to a comfortable temperature. Many local health departments require hot water.
- When children have access to a hand-washing sink, it is important to protect them from being scalded. Research indicates tap water burns are a leading cause of non-fatal burns. If a local health department requires water hotter than 120 degrees F for other uses in the operation, several measures are available to adjust water temperature at a hand-washing sink.

## **§744.2523. Must caregivers wear gloves when handling blood or bodily fluids containing blood?**

*Subchapter K, Health Practices*

*Division 1, Environmental Health*

*September 2016*

Yes. Caregivers must follow universal precautions outlined by the Centers for Disease Control (CDC) when handling blood, vomit, or other bodily fluids that may contain blood including:

- (1) Using of disposable, nonporous gloves [Medium-High];
- (2) Placing gloves contaminated with blood in a tied, sealed, or otherwise closed plastic bag and discarding them immediately [Medium-High];
- (3) Discarding all other gloves immediately after one use [Medium-High]; and
- (4) Washing hands after using and disposing of the gloves. [Medium-High]

## **§744.2525. Must I use a licensed exterminator to treat my operation for insects, rodents, and other pests?**

*Subchapter K, Health Practices*

*Division 1, Environmental Health*

*September 2010*

You may treat your operation for pests only if you are certified as a noncommercial applicator by the Texas Department of Agriculture. Otherwise, you must use a pest control operator licensed by the Texas Department of Agriculture to prevent, control, or eliminate pest infestations at your operation, including the use of over-the-counter products designed for controlling insects, rodents, and other pests. [Medium-High]

## **§744.2527. Are there general precautions I must take when my operation is being treated for insects, rodents, and other pests?**

*Subchapter K, Health Practices*

*Division 1, Environmental Health*

*September 2010*

- (a) Children must not be allowed in areas where there is pesticide residue that may be harmful to them. Follow written instructions from the licensed pest control operator or label directions in order to determine whether the residue may be harmful to children. [Medium-High]
- (b) Areas where children are present may be treated with chemicals only when permissible under the label directions. [Medium-High]

## **§744.2529. May I use water from a private water supply instead of a public water supply for my operation?**

*Subchapter K, Health Practices*

*Division 1, Environmental Health*

*September 2010*

Yes, you may use water from a private water supply, although you must:

- (1) Maintain the water supply in a safe and sanitary manner [Medium-High]; and
- (2) Maintain written records indicating the private water supply meets the requirements of the Texas Commission on Environmental Quality, if applicable. [Medium-High]

## **§744.2531. May I use a septic system for sewage disposal?**

*Subchapter K, Health Practices*

*Division 1, Environmental Health*

*September 2010*

Yes, if the septic system is sanitary and meets the standards of the Texas Commission on Environmental Quality, including any routine inspections required by law. [Medium-High]

## **Division 2, Toileting**

### **§744.2551. What steps must caregivers follow for assisting children with toileting?**

*Subchapter K, Health Practices*

*Division 2, Toileting*

*April 2017*

Caregivers must:

- (1) Promptly change soiled or wet clothing [Medium-High];
- (2) Thoroughly cleanse and dry children with individual cloths or disposable towels. You must discard the disposable towels after use and launder any cloths before using them again [Medium-High];
- (3) Not change children in or on areas that children come in close contact with during play or eating, such as dining tables, sofas, or floor play areas [Medium-High];
- (4) Wash their hands after assisting with toileting. Refer to §744.2519 of this title (relating to How must children and employees wash their hands?) [Medium-High]; and
- (5) Place soiled clothing in a tied, sealed, or otherwise closed plastic bag. [Medium-High]

## Division 3, Illness and Injury

### **§744.2571. What types of illness would prohibit a child from attending the operation?**

*Subchapter K, Health Practices*

*Division 3, Illness and Injury*

*April 2017*

You must not allow an ill child to attend your operation if one or more of the following exists:

- (1) The illness prevents the child from participating comfortably in the operation activities including outdoor play [Medium-High];
- (2) The illness results in a greater need for care than caregivers can provide without compromising the health, safety, and supervision of the other children in care [Medium-High];
- (3) The child has one of the following (unless a medical evaluation by a health-care professional indicates that you can include the child in your operation's activities):
  - (A) An oral temperature above 101 degrees that is accompanied by behavior changes or other signs or symptoms of illness [Medium];
  - (B) A tympanic (ear) temperature above 100 degrees that is accompanied by behavior changes or other signs or symptoms of illness [Medium];
  - (C) An axillary (armpit) temperature above 100 degrees that is accompanied by behavior changes or other signs or symptoms of illness [Medium]; or
  - (D) Symptoms and signs of possible severe illness such as lethargy, abnormal breathing, uncontrolled diarrhea, two or more vomiting episodes in 24 hours, rash with fever, mouth sores with drooling, behavior changes, or other signs that the child may be severely ill [Medium]; or
- (4) A health-care professional has diagnosed the child with a communicable disease, and the child does not have medical documentation to indicate that the child is no longer contagious. [Medium]

### Helpful Information

- Regarding paragraph (3), when taking a child's temperature, the American Academy of Pediatrics (AAP) recommends that:
  - Electronic devices for measuring temperature require periodic calibration and specific training in proper technique; and
  - The height of fever does not indicate a more or less severe illness.
- Regarding subparagraph (D), as with temperatures a child does not have to be sent home unless there are multiple symptoms and signs of possible severe illness. Some children may also have medical issues that cause one or more symptoms, but the symptoms may not be a sign of possible severe illness (for example, a child that is lactose intolerant).
- To clarify "uncontrolled diarrhea" this is when:
  - A diapered child's stool:
    - Is not contained in the diaper; and/or
    - Exceeds two or more stools above the normal for that child; or
  - A toilet-trained child's diarrhea is causing soiled pants and clothing.

## **§744.2573. What communicable diseases would exclude a child from attending my operation?**

*Subchapter K, Health Practices*

*Division 3, Illness and Injury*

*April 2017*

You must follow the communicable disease exclusions required for schools as defined by the Texas Department of State Health Services (DSHS) in 25 TAC §97.7 (relating to Diseases Requiring Exclusion from Schools). [Medium-High]

### Helpful Information

You can access the DSHS rule at [http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC) by clicking on "Title 25 Health Services", clicking on "Part 1 Department of State Health Services", clicking on "Chapter 97 Communicable Diseases", clicking on Subchapter A Control of Communicable Diseases", and clicking on "97.7 Diseases Requiring Exclusion from Schools".



## **§744.2575. How must caregivers respond when a child becomes ill?**

*Subchapter K, Health Practices*

*Division 3, Illness and Injury*

*April 2021*

- (a) If a child becomes ill while in your care but does not require immediate treatment by a health-care professional or hospitalization, you must:
- (1) Contact the parent to pick up the child [Medium-High];
  - (2) Care for the child apart from other children [Medium-High];
  - (3) Give appropriate attention and supervision until the parent picks the child up [Medium-High]; and
  - (4) Give extra attention to hand washing and sanitation if the child has diarrhea or vomiting. [Medium-High]
- (b) If a child becomes ill while in your care and requires immediate treatment by a health-care professional or hospitalization, you must:
- (1) Contact emergency medical services (or take the child to the nearest emergency room after you have ensured the supervision of other children in the group) [High];
  - (2) Give the child first-aid treatment or CPR when needed [High];
  - (3) Contact the child's parent [High];
  - (4) Contact the physician or other health-care professional identified in the child's record [Low]; and
  - (5) Ensure the supervision of other children in the group. [High]

## **§744.2576. When may a child who was ill return to my operation?**

*Subchapter K, Health Practices*

*Division 3, Illness and Injury*

*April 2017*

A child who was ill may return to your operation when:

- (1) The child is free of symptoms of illness for 24 hours [Medium]; or

- (2) You have obtained a health-care professional's statement that the child no longer has an excludable disease or condition. [Medium]

## **§744.2577. How must caregivers respond when a child is injured and requires immediate treatment by a health-care professional?**

*Subchapter K, Health Practices*

*Division 3, Illness and Injury*

*April 2021*

For an injury that requires immediate treatment by a health-care professional, you must:

- (1) Contact emergency medical services (or take the child to the nearest emergency room after you have ensured the supervision of other children in the group) [High];
- (2) Give the child first-aid treatment or CPR when needed [High];
- (3) Contact the child's parent [High];
- (4) Contact the physician or other health-care professional identified in the child's record [Low]; and
- (5) Ensure supervision of other children in the group. [High]

## **§744.2579. What is a vaccine-preventable disease for the purpose of this division?**

*Subchapter K, Health Practices*

*Division 3, Illness and Injury*

*June 2014*

A vaccine-preventable disease is a disease that is included in the most current recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention

## **§744.2581. What must a policy for protecting children from vaccine-preventable diseases include?**

*Subchapter K, Health Practices*

*Division 3, Illness and Injury*

*June 2014*

A policy for protecting the children in your care from vaccine-preventable diseases must:

- (1) Specify any vaccines that you have determined an employee must have for vaccine- preventable diseases based on the level of risk the employee presents to children by the employee's routine and direct exposure to children [Medium];
- (2) Require each employee to receive each specified vaccine that the employee is not exempt from having [Medium-High];
- (3) Include procedures for verifying whether an employee has complied with your policy [Medium-High];
- (4) Include procedures for an employee to be exempt from having a required vaccine because of:
  - (A) Medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention (CDC) [Medium]; or
  - (B) Reasons of conscience, including a religious belief [Medium];
- (5) Include procedures that an exempt employee must follow to protect children in your care from exposure to disease, such as the use of protective medical equipment, including gloves and masks, based on the level of risk the employee presents to children by the employee's routine and direct exposure to children [Medium-High];
- (6) Prohibit discrimination or retaliatory action against an exempt employee, except that required use of protective medical equipment, including gloves and masks, may not be considered retaliatory action for purposes of this section [Medium-Low];
- (7) Outline how you will maintain a written or electronic record of each employee's compliance with or exemption from your policy [Medium]; and
- (8) State the disciplinary actions you may take against an employee who fails to comply with your policy. [Medium]

## Helpful Information

You can find more information on the current immunizations recommended for adults on the Center for Disease Control (CDC) website at:

<http://www.cdc.gov/vaccines/schedules/downloads/adult/adult-schedule.pdf>

The specific immunizations needed as an adult vary on such factors including age, overall health as well as persons you are in close contact with. Some immunizations given during adulthood may include:

- Influenza (Flu) – this immunization helps protect against the flu. When determining if a flu shot is required some factors to consider are people at a higher of risk of severe flu and persons with close contact with others who are at a higher risk of flu including persons who care for children younger than 12 months of age.
- HepA (Hepatitis) – this immunization helps protect against the hepatitis A disease. Factors to be considered when determining the need for the HepA immunization can include anyone who will be in close contact with a person or child from a country that has high rates of Hepatitis A.
- Pertussis (Whooping Cough) – two immunizations known as DTap and Tdap help protect against this disease. Whooping cough is very contagious and most severe for babies. Factors to consider when determining the need for this immunization include determining the level of risk associated with certain persons and caregivers who are in close contact with infants. It is important to understand that whooping cough is usually spread by coughing or sneezing and many babies who get whooping cough are infected by persons including caregivers who might not even know they have the disease.

For additional information regarding the development of your policy for protecting children from vaccine-preventable diseases please refer to Appendix III: Vaccine-Preventable Diseases.

## Subchapter L, Safety Practices

### Division 1, Safety Precautions

#### **§744.2601. What safety precautions must I take to protect children in my operation?**

*Subchapter L, Safety Practices*

*Division 1, Safety Precautions*

*April 2017*

All areas accessible to a child must be free from hazards including, but not limited to, the following [Medium-High]:

- (1) Electrical outlets accessible to a child younger than five years old must have childproof covers or safety outlets [Medium-High];
- (2) 220-volt electrical connections within a child's reach must be covered with a screen or guard [Medium-High];
- (3) Air conditioners, electric fans, and heaters must be mounted out of all children's reach or have safeguards that keep any child from being injured [Medium-High];
- (4) Glass in sliding doors must be clearly marked with decals or other materials placed at children's eye level [Medium-High];
- (5) Play materials and equipment must be safe and free from sharp or rough edges and toxic paints [Medium-High];
- (6) Poisonous or potentially harmful plants must be inaccessible to all children [Medium-High];
- (7) All storage chests, boxes, trunks, or similar items with hinged lids must be equipped with a lid support designed to hold the lid open in any position, be equipped with ventilation holes, and must not have a latch that might close and trap a child inside [Medium-High];
- (8) All bodies of water such as pools, hot tubs, ponds, creeks, birdbaths, fountains, buckets, and rain barrels must be inaccessible to all children [High]; and
- (9) All televisions must be anchored, so they cannot tip over. A television may be anchored to a rolling cart, as long as it is anchored in a way that the cart will not tip over. [Medium-High]

### Helpful Information

- Supervision alone cannot prevent all accidents and injuries; therefore the environment must be free of health and safety hazards to reduce risks to children.
- Additional examples of hazards to children include: sharp scissors, plastic bags, knives, cigarettes, matches, lighters, flammable liquids, drugs/medications, sharp instruments such as an ice pick, power tools, cleaning supplies, chemicals, and other items labeled keep out of the reach of children.
- Buildings, grounds and equipment in a state of disrepair threaten the health and safety of children.
- Regarding paragraph (9), CPSC estimates that more than 43,000 consumers are injured in tip-over incidents. More than 25,000 (59%) of those injuries are to children under the age of 18. Falling furniture accounts for more than half (52%) of the injury reports. Falling televisions have proven to be more deadly, as they are associated with more than half (62%) of reported fatalities.

## **§744.2603. How can I ensure the safety of the children from other persons?**

*Subchapter L, Safety Practices*

*Division 1, Safety Precautions*

*April 2017*

- (a) People whose behavior and/or health status poses an immediate threat or danger to the health or safety of the children must not be present when children are in care. [High]
- (b) People must not consume alcohol or controlled substances without a prescription in the operation, during transportation, or on field trips. [High]
- (c) People must not be under the influence of or impaired by alcohol or controlled substances in the operation, during transportation, or on field trips. [High]
- (d) People must not smoke any e-cigarette, vaporizer, or tobacco product or otherwise use any tobacco product at your operation, on the premises, on the playground, in transportation vehicles, or during field trips. [High]

## **§744.2605. Am I required to have a video or audio monitoring system?**

*Subchapter L, Safety Practices*

*Division 1, Safety Precautions*

*September 2010*

Although permissible, you are not required to have a video or audio monitoring system.

## **§744.2607. Are firearms or other weapons allowed at my operation?**

*Subchapter L, Safety Practices*

*Division 1, Safety Precautions*

*April 2017*

- (a) Peace officers as listed in §2.12 of the Code of Criminal Procedure and security officers commissioned by the Texas Private Security Board who are trained and certified to carry a firearm on duty may have firearms and ammunition on the premises of the operation.
- (b) For all other persons, firearms, hunting knives, bows and arrows, and other weapons are prohibited on the premises of the operation, unless the operation is also your home and except as allowed under subsection (e) of this section. This prohibition does not apply to personal vehicles. [High]
- (c) Firearms, hunting knives, bows and arrows, and other weapons kept on the premises of an operation located in your home must remain in a locked cabinet inaccessible to children during your hours of operation. [High]
- (d) Ammunition must be kept in a separate locked cabinet and inaccessible to children during your hours of operation. [High]

(e) If your operation uses specialized equipment or weapons that are fundamental to teaching a skill, talent, ability, expertise, or proficiency that is the goal of skill instruction or training that is a core component of your operation's program, such as batons and sticks used in martial arts programs:

- (1) The equipment must be used according to manufacturer's instructions and supervised by trained personnel [Medium-High];
- (2) The safety practices employed by the operation and the risks associated with the use of the equipment must be outlined in your policies and procedures [Medium]; and
- (3) Parents must provide written consent before children may use the equipment. Written consent must be kept on file at the operation in the child's record and available for review by Licensing during your hours of operation. [Medium]

## **§744.2609. May I have toys or other types of equipment that explode or shoot things?**

*Subchapter L, Safety Practices*

*Division 1, Safety Precautions*

*April 2017*

A child may not use any type of toy or equipment that explodes or that shoots things, such as caps, BB guns, darts, or fireworks at the operation or on field trips. These types of toys and equipment are not allowed at your operation unless your operation is located in your home. If your operation is located in your home, you must keep any such toy or equipment in a locked cabinet inaccessible to any child during your hours of operation. [Medium-High]



## **Division 2, Medication and Medical Assistance**

### **§744.2651. What does “medication” refer to in this division?**

*Subchapter L, Safety Practices*

*Division 2, Medication and Medical Assistance*

*April 2017*

In this division, medication means:

- (1) A prescription medication; or
- (2) A non-prescription medication, excluding topical ointments such as insect repellent and sunscreen.

### **§744.2653. What authorization must I obtain before administering a medication to a child in my care?**

*Subchapter L, Safety Practices*

*Division 2, Medication and Medical Assistance*

*March 2012*

- (a) Authorization to administer medication to a child in your care must be obtained from the child’s parent:
  - (1) In writing, signed and dated [Medium-High];
  - (2) In an electronic format that is capable of being viewed and saved [Medium-High]; or
  - (3) By telephone to administer a single dose of a medication. [Medium-High]
- (b) Authorization to administer medication expires on the first anniversary of the date the authorization is provided. [Medium-High]
- (c) The child’s parent may not authorize you to administer medication in excess of the medication’s label instructions or the directions of the child’s health-care professional. [Medium]
- (d) Parent authorization is not required if you administer a medication to a child in a medical emergency to prevent the death or serious bodily injury of the child, provided that you administer the medication as prescribed, directed, or intended. [Medium-High]

## **§744.2655. How must I administer medication to a child in my care?**

*Subchapter L, Safety Practices*

*Division 2, Medication and Medical Assistance*

*March 2012*

- (a) Medication must be given:
  - (1) As stated on the label directions [High]; or
  - (2) As amended in writing by the child's health-care professional. [High]
- (b) Medication must:
  - (1) Be in the original container labeled with the child's full name and the date brought to the operation [Medium-High];
  - (2) Be administered only to the child for whom it is intended [High]; and
  - (3) Not be administered after its expiration date. [Medium-High]
- (c) When you administer medication to a child in your care, you must record the following:
  - (1) Full name of the child to whom the medication was given [Medium-High];
  - (2) Name of the medication [Medium-High];
  - (3) Date, time, and amount of medication given [Medium-High]; and
  - (4) Full name of the employee administering the medication. [Medium-High]
- (d) You must keep all medication records for at least three months after administering the medication. [Medium]

## **§744.2657. How must I store medication that I administer to a child?**

*Subchapter L, Safety Practices*

*Division 2, Medication and Medical Assistance*

*September 2010*

You must store medications as follows:

- (1) Keep it out of the reach of children or in locked storage [High];
- (2) Store it in a manner that does not contaminate food [Medium-High]; and
- (3) Refrigerate it, if refrigeration is required, and keep it separate from food. [Medium-High]

## **§744.2659. How long may I keep the medication that I administer to a child?**

*Subchapter L, Safety Practices*

*Division 2, Medication and Medical Assistance*

*September 2010*

You must dispose of the medication or return it to the parent when the child withdraws from the operation, or when the medication is out-of-date or is no longer required for the child. [Medium]

## **§744.2661. Do I have to notify parents if I do not want to administer medications?**

*Subchapter L, Safety Practices*

*Division 2, Medication and Medical Assistance*

*September 2010*

Yes. If you choose not to administer medication to children, you must inform the parents of this policy in writing before the child's enrollment. [Medium]

## **§744.2663. What is specialized medical assistance?**

*Subchapter L, Safety Practices*

*Division 2, Medication and Medical Assistance*

*March 2012*

Specialized medical assistance is any medical assistance other than medication. Examples include, but are not limited to, assisting with an apnea monitor, protective helmet, or leg brace.

## **§744.2665. What are my requirements regarding specialized medical assistance?**

*Subchapter L, Safety Practices*

*Division 2, Medication and Medical Assistance*

*March 2012*

- (a) If a child in your care requires specialized medical assistance, then you are required to provide the specialized medical assistance as recommended or ordered by a health-care professional. [High]
- (b) If you are provided with a written copy of the health-care professional's recommendations or orders, you must maintain this written information in the child's record for at least three months after the health-care professional has indicated that the specialized medical assistance is no longer needed. [Medium-High]

## **§744.2667. What is a food allergy emergency plan?**

*Subchapter L, Safety Practices*

*Division 2, Medication and Medical Assistance*

*September 2016*

A food allergy emergency plan is an individualized plan prepared by the child's health care professional that includes:

- (1) a list of each food the child is allergic to;
- (2) possible symptoms if exposed to a food on the list; and
- (3) the steps to take if the child has an allergic reaction.

## **§744.2669. When must I have a food allergy emergency plan for a child?**

*Subchapter L, Safety Practices*

*Division 2, Medication and Medical Assistance*

*September 2016*

You must have a food allergy emergency plan for each child with a known food allergy that has been diagnosed by a health-care professional. The child's health care professional and parent must sign and date the plan. You must keep a copy of the plan in the child's file.

[Medium-High]

## Division 3, Animals at the Operation

### §744.2701. What steps must I take to have animals at my operation and/or on a field trip?

*Subchapter L, Safety Practices*

*Division 3, Animals at the Operation*

*April 2017*

If you choose to have animals on the premises of your operation and/or on a field trip, you must:

- (1) Notify parents in writing when animals are or will be present [Medium];
- (2) Ensure the animals do not create unsafe or unsanitary conditions [Medium-High];
- (3) Ensure that children do not handle any animal that shows signs of illness, such as lethargy or diarrhea [Medium-High]; and
- (4) Ensure that caregivers and children practice good hygiene and hand washing after handling or coming into contact with an animal and items used by an animal, such as water bowls, food bowls, and cages. [Medium-High]

#### Helpful Information

Informing parents in writing when animals are or will be present at the operation and/or on field trips allows parents to decide whether to enroll their child and whether to prohibit or allow their child to have contact with the animals.

## **§744.2703. Must I keep documentation of vaccinations on file for the animals?**

*Subchapter L, Safety Practices*

*Division 3, Animals at the Operation*

*September 2010*

- (a) Yes. You must have documentation at your operation showing dogs and cats have been vaccinated as required by Texas Health and Safety Code, Chapter 826.

[Medium-High]

- (b) You must have a statement of health from a local veterinarian at your operation for dogs, cats, ferrets, and other animals other than small rodents, such as guinea pigs, mice, and hamsters. [Medium-High]

### **Helpful Information**

A statement of health from a local veterinarian, trained to assess the health of animals and the spread of disease through direct or indirect means, is important to decrease the health risk to children.

## **§744.2705. Must I prevent children from having contact with certain animals while at my operation?**

*Subchapter L, Safety Practices*

*Division 3, Animals at the Operation*

*September 2010*

- (a) Yes. Children must not have contact with chickens, ducks, and reptiles, such as snakes, turtles, lizards, iguanas, and amphibians, such as frogs and toads. [Medium-High]
- (b) You must keep the operation and playground free of animals unfamiliar to you. [Medium-High]
- (c) You must not allow children to play with animals unfamiliar to you or other animals that could be dangerous, including exotic animals such as monkeys. [Medium-High]

Helpful Information
Research has shown there is a high risk of contracting and spreading salmonellosis by either direct contact or indirect contact with chickens, ducks, and reptiles, such as snakes, turtles, lizards, iguanas, and amphibians, such as frogs and toads.

## Division 4, First-Aid Kits

### §744.2751. Must I have a first-aid kit at my operation?

*Subchapter L, Safety Practices*

*Division 4, First-Aid Kits*

*September 2010*

Yes. You must have a complete first-aid kit available in each building at the operation, during all field trips, and while transporting children. Each first-aid kit must be [Medium-High]:

- (1) Clearly labeled [Medium];
- (2) Kept in a clean and sanitary condition [Medium-High];
- (3) Easily accessible to all employees [Medium-High];
- (4) Stored in a designated location known to all employees [Medium-High]; and
- (5) Kept out of the reach of children. [Medium-High]

### §744.2753. What items must each first-aid kit contain?

*Subchapter L, Safety Practices*

*Division 4, First-Aid Kits*

*September 2010*

- (a) Each first-aid kit must contain the following supplies:
  - i. A guide to first aid and emergency care [Medium];
  - ii. Adhesive tape [Medium];
  - iii. Antiseptic solution or wipes [Medium];
  - iv. Cotton balls [Medium];
  - v. Multi-size adhesive bandages [Medium];
  - vi. Scissors [Medium];
  - vii. Sterile gauze pads [Medium];
  - viii. Thermometer, preferably non-glass [Medium];
  - ix. Tweezers [Medium]; and
  - x. Waterproof, disposable gloves. [Medium]
- (b) The first-aid supplies must not have expired. [Medium]



## Division 5, Release of Children

### §744.2801. To whom may I release children?

*Subchapter L, Safety Practices*

*Division 5, Release of Children*

*September 2010*

You must release children only to a parent or a person designated by the parent. [Medium-High]

#### Helpful Information

- If you suspect the person picking up a child is under the influence of drugs or alcohol, you may call local police and request their assistance.
- You may not legally prevent the child from being picked up by a parent or person designated by the parent; however, you may address this issue at enrollment by asking parents what they would like for you to do if you do not feel comfortable releasing the child to one of the parents and signing an agreement to this effect.
- Law enforcement officers and DFPS Child Protective Services staff have the authority by law to remove a child without a parent's permission.
- Always ask to see the identification of persons you do not know.

## **§744.2803. How do my employees verify the identity of a parent or a person a parent has designated to pick up the child?**

*Subchapter L, Safety Practices*

*Division 5, Release of Children*

*September 2010*

- (a) You must develop operation policies for the release of children, including a plan to verify the identity of a person authorized to pick up a child but whom the caregiver does not know. If your operation transports children, the plan must include verifying the identity of a person to whom you release a child from an operation transportation vehicle. [Medium-High]
- (b) Your policies must include a reasonable means to record the identity of the individual, such as a copy of valid photo identification, an instant photograph of the individual, or recording the driver's license number and car license plate numbers. You must retain this information in the child's records for at least three months. [Medium-High]
- (c) You must instruct all employees in the operation's policies for the release of children, including the verification plan. [Medium-High]

## Subchapter M, Physical Facilities

### Division 1, Indoor Space Requirements

#### **§744.2901. How many square feet of indoor activity space must I have for children?**

*Subchapter M, Physical Facilities*

*Division 1, Indoor Space Requirements*

*September 2010*

You must have at least 30 square feet of indoor activity space for each child that you are licensed to serve, unless the operation is exempt based on criteria specified in this division. [Medium-High]

#### **Helpful Information**

- Space in which children can freely move for exercise and development of physical skills is necessary to the well-being of children.
- Conflict between children and behavior problems are more likely to occur in crowded environments and children confined to crowded spaces are more likely to spread germs.

#### **§744.2903. Must I limit the number of children in each room based on the indoor activity space measurements for that room?**

*Subchapter M, Physical Facilities*

*Division 1, Indoor Space Requirements*

*September 2010*

The number of children in each room must not routinely exceed what the room measurement will accommodate. However the number of children may exceed what the room measurement will accommodate if it is appropriate given the age of the children using the space, and whether the equipment and furnishings allow the children to safely participate in the activities. [Medium-High]

## **§744.2905. Do these indoor activity space requirements apply to my operation if it was licensed before September 1, 2010?**

*Subchapter M, Physical Facilities*

*Division 1, Indoor Space Requirements*

*April 2017*

- (a) Yes, the only exemption is for operations licensed as kindergarten and nursery schools, or schools: grades kindergarten and above, before September 1, 2003. These operations must have at least 20 square feet of indoor activity space for each child the operation is licensed to serve. [Low]
- (b) The exemption specified in subsection (a) of this section remains in effect until a permit issued prior to September 1, 2010, is no longer valid. [Low]

## **§744.2907. How does Licensing determine the indoor activity space?**

*Subchapter M, Physical Facilities*

*Division 1, Indoor Space Requirements*

*April 2017*

- (a) We determine indoor activity space by:
  - (1) Measuring all indoor activity space wall to wall on the inside at floor level;
  - (2) Rounding all measurements up to the nearest inch;
  - (3) Excluding single-use areas, which are areas not routinely used for children's activities, such as a bathroom, hallway, storage room, cooking area of a kitchen, swimming pool, and storage building; and
  - (4) Excluding floor space occupied by permanent and stationary fixtures, such as bookcases, shelving, and storage/counter space, that is not intended for use by the children.
- (b) We use the sum of the measurements to calculate the indoor activity space and to determine the maximum number of children you may care for.

### **Helpful Information**

Local ordinances or fire marshals may have additional restrictions or limitations on the numbers of children the indoor activity space will accommodate.

## **§744.2909. May other programs use my indoor activity space at the same time I have children in care?**

*Subchapter M, Physical Facilities*

*Division 1, Indoor Space Requirements*

*September 2010*

(a) You may share the indoor activity space that is not classroom space with other programs at the same time you have children in care, if you have a written plan specifying how caregivers will supervise and account for children in your care. The plan must address the following [Medium-High]:

- (1) The ages of the children [Medium];
- (2) The proximity of restroom facilities and the operation entrances and exits to the children's area [Medium]; and
- (3) The nature of other activities and persons who may be sharing the space. [Medium]

(b) You must follow your written plan and submit a copy to Licensing upon request. [Medium-High]

### **Helpful Information**

- The intent of the written plan regarding shared space is to protect and reduce risk to the children in care at your operation.
- Your plan will be unique and should take into consideration your program and other programs using the space. For this reason no two written plans will look the same.
- It is important to review and update your written plan anytime there are changes in what programs use the space, the nature of these programs, or the needs of the children in your care.

## **§744.2911. May I care for children above or below ground level?**

*Subchapter M, Physical Facilities*

*Division 1, Indoor Space Requirements*

*September 2010*

You must not care for children on any level above or below ground level without written approval from the state or local fire marshal. [Medium]

## Division 2, Outdoor Space Requirements

### §744.2951. How many square feet of outdoor activity space must I have?

*Subchapter M, Physical Facilities*

*Division 2, Outdoor Space Requirements*

*September 2010*

- (a) If children are in care for five or more consecutive hours, you must have 80 square feet of outdoor activity space for each child using the outdoor activity area at one time, or the indoor activity space must allow for room and equipment that permits children the opportunity to engage in age appropriate active play. [Medium]
- (b) If you were licensed before September 1, 2003, you do not have to comply with the outdoor activity space requirements specified in subsection (a) of this section unless the permit issued prior to September 1, 2003, is no longer valid. [Low]
- (c) As long as children are in care for less than five consecutive hours, you are not required to have outdoor activity space if your program provides only indoor instruction that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency that requires physical activity. [Medium]

#### Helpful Information

- NAEYC affirms that adequate outdoor space for play is necessary for the development of gross motor (large muscle) skills and to provide children with fresh air and sunshine.
- Exposure to sun is needed, but children should be protected from excessive exposure so shaded areas should be provided by means of open space and tree plantings or other cover in outdoor spaces.

## **§744.2953. Must I fence the outdoor activity space?**

*Subchapter M, Physical Facilities*

*Division 2, Outdoor Space Requirements*

*September 2010*

Yes. A fence or wall at least four feet high must enclose the outdoor activity space unless you meet one of the following [Medium-High]:

- (1) Your operation is located at a public school facility operated by the local independent school district [Low]; or
- (2) The only children using the outdoor activity space are five years old or older.  
[Medium-High]

### **Helpful Information**

Enclosed outdoor areas keep pre-kindergarten age children in a controlled area for their safety and ease of supervision.

## **§744.2955. How many exits must I have from my fenced outdoor activity space?**

*Subchapter M, Physical Facilities*

*Division 2, Outdoor Space Requirements*

*September 2010*

Each fenced yard must have at least two exits. An entrance to the building may count as one exit, but one exit must be away from the building. [Medium]

## **§744.2957. May I keep the gates leading into my outdoor activity space locked while children are in care?**

*Subchapter M, Physical Facilities*

*Division 2, Outdoor Space Requirements*

*September 2010*

Yes, however the locking mechanism must be accessible to all employees at all times. Employees must be able to open the gates immediately in an emergency and satisfactorily demonstrate this ability to Licensing staff upon request. [Medium-High]

## **§744.2959. Must the outdoor activity space be connected to the operation?**

*Subchapter M, Physical Facilities*

*Division 2, Outdoor Space Requirements*

*September 2010*

No; however, all outdoor activity areas used by children must be accessible from the operation by a safe route. We must approve a plan to use an outdoor activity space that is not connected to the operation, such as a near-by park, schoolyard, or other alternative. We will consider the following criteria before approving the plan

[Medium]:

- (1)Traffic patterns of vehicles and people in the area [Medium-High];
- (2)Ages of children in the groups [Medium-High];
- (3)Availability of appropriate equipment [Medium-High];
- (4)Usage of the location by other persons when the children would be most likely to use it [Medium];
- (5)Neighborhood circumstances, hazards, and risks [Medium-High];
- (6)Accessibility to children and caregivers on foot [Medium-High];
- (7)Reasonable accessibility of restroom facilities [Medium-High]; and
- (8)Ability to obtain assistance if needed when injury or illness occurs. [Medium-High]

## **§744.2961. Must I comply with additional requirements if my plan to use an outdoor activity space not connected to my operation is approved by Licensing?**

*Subchapter M, Physical Facilities*

*Division 2, Outdoor Space Requirements*

*September 2010*

Yes. If we approve the outdoor activity space, you must:

- (1)Give parents written notification of the location of the outdoor activity area, upon their child's enrollment [Medium];



- (2) Develop a written plan to supervise children, both during play and while traveling to and from the outdoor activity space [Medium-High]; and
- (3) Meet other conditions specified by Licensing staff, if applicable. [Medium]

## §744.2963. May other programs use my outdoor activity space at the same time I have children in care?

*Subchapter M, Physical Facilities*

*Division 2, Outdoor Space Requirements*

*September 2010*

(a) You may share the outdoor activity space with other programs at the same time you have children in care if you have a written plan specifying how caregivers will supervise and account for children in your care. The plan must address the following

[Medium-High]:

- (1) The ages of the children [Medium];
- (2) The proximity of restroom facilities and the operation entrances and exits to the children's area [Medium]; and
- (3) The nature of other activities and persons who may be sharing the space. [Medium]

(b) You must follow your written plan and submit a copy to Licensing upon request. [Medium-High]

### Helpful Information

- The intent of the written plan regarding shared space is to protect and reduce risk to the children in care at your operation.
- Your plan will be unique and should take into consideration your program and other programs using the space. For this reason no two written plans will look the same.
- It is important to review and update your written plan anytime there are changes in what programs use the space, the nature of these programs, or the needs of the children in your care.

## Division 3, Toilets and Sinks

### **§744.3001. How many hand-washing sinks must I have in my operation for children's use?**

*Subchapter M, Physical Facilities*

*Division 3, Toilets and Sinks*

*September 2010*

- (a) If you are licensed to serve 13 or more children ages five years old and older, unless otherwise specified in this division, you must have one sink for every 20 children. [Medium-High]
- (b) If you are licensed to serve 13 or more children, and have children younger than five years of age in care, unless otherwise specified in this division, you must have one sink for every 17 children. [Medium-High]
- (c) If you are licensed to serve 12 or fewer children, unless otherwise specified in this division, you must have at least one sink available for the children's use. [Medium-High]
- (d) If you were licensed as a kindergarten and nursery school, or school: grades kindergarten and above, before September 1, 2003, you must have one sink for every 20 children. [Medium-High]
- (e) If you were licensed as a drop-in center before September 1, 2003, you must have at least one sink for every 25 children. [Medium-High]
- (f) A kindergarten and nursery school, school: grades kindergarten and above, and drop-in center must comply with the requirements specified in subsection (a) or (b) of this section if the permit issued prior to September 1, 2003, is no longer valid. [Medium-High]

## **§744.3003. Where must I locate the hand-washing sinks for children's use?**

*Subchapter M, Physical Facilities*

*Division 3, Toilets and Sinks*

*April 2017*

Hand-washing sinks must be inside the operation. Children must be able to safely and independently access the sink. Hand-washing sinks must be equipped with soap, running water, and single-use disposable towels or hot-air hand dryers. [Medium]

### **Helpful Information**

For further information regarding hand-washing, see Division 1 of Subchapter K (relating to Environmental Health).

## **§744.3005. How many toilets am I required to have in my operation?**

*Subchapter M, Physical Facilities*

*Division 3, Toilets and Sinks*

*September 2010*

- (a) If you are licensed to serve 13 or more children ages five years and older, you must have one flush toilet for every 20 children. [Medium]
- (b) If you are licensed to serve 13 or more children, and have children younger than five years of age in care, unless otherwise specified in this division, you must have one flush toilet for every 17 children. [Medium]
- (c) If you are licensed to serve 12 or fewer children, you must have at least one flush toilet available for the children's use. [Medium]
- (d) If you were licensed as a kindergarten and nursery school, or school: grades kindergarten and above, before September 1, 2003, you must have one flush toilet for every 20 children. [Medium]
- (e) If you were licensed as a drop-in center before September 1, 2003, you must have at least one flush toilet for every 25 children. [Low]

- (f) An operation licensed before September 1, 2003, must comply with the requirements specified in subsection (a) or (b) of this section if the permit issued prior to September 1, 2003, is no longer valid. [Low]

## **§744.3007. Where must the toilets be located?**

*Subchapter M, Physical Facilities*

*Division 3, Toilets and Sinks*

*April 2017*

Toilets must be inside the operation and include toilet paper. Children must be able to safely and independently access the toilet. Toilets must be equipped for independent use by children and allow supervision by caregivers, as needed. [Medium]

## **§744.3009. May I count urinals in the ratio of children to toilets?**

*Subchapter M, Physical Facilities*

*Division 3, Toilets and Sinks*

*September 2010*

- (a) Urinals may be counted in the ratio of children to toilets, but may not exceed 50% of the total number of toilets. [Medium]
- (b) Restrooms containing urinals must also have flush toilets. [Medium]

## **§744.3011. Do I have to use toilets, sinks and fountains that are child sized?**

*Subchapter M, Physical Facilities*

*Division 3, Toilets and Sinks*

*September 2010*

No. However if you use a sink, urinal, toilet, or drinking fountain that is too high for children to use safely and independently, you must equip it with anchored steps and/or a broad-based platform with a non-slip surface. [Medium]

## §744.3013. May the doors to the restroom or toilets have locks on them?

*Subchapter M, Physical Facilities*

*Division 3, Toilets and Sinks*

*September 2010*

Yes. Doors on restrooms and toilets used by children may have locks, although:

- (1) Locks must be out of children's reach [Medium]; or
- (2) If locks are within children's reach there must be a way to immediately open the door from the outside in an emergency, and [Medium-High]:
  - (A) The unlocking mechanism must be accessible to all employees at all times and must be demonstrated satisfactorily to Licensing staff upon request [Medium-High]; and
  - (B) An adult must be present in the restroom area when children younger than five years old are using restrooms with door locks within children's reach. [Medium-High]

Helpful Information
Caregivers need immediate access to young children to assist with toileting or to provide supervision, while older children may need privacy.

## **§744.3015. May other programs use the toilets and hand washing sinks counted in my indoor activity space at the same time I have children in care?**

*Subchapter M, Physical Facilities*

*Division 3, Toilets and Sinks*

*September 2010*

- (a) Yes. You may share the toilets and hand washing sinks counted in your indoor activity space with other programs at the same time you have children in care, provided you:
- (1) Ensure adequate facilities are available to children when needed [Medium]; and
  - (2) Have a written plan specifying how caregivers will supervise and account for children in your care that addresses [Medium]:
    - (A) The ages of the children [Medium];
    - (B) The proximity of restroom facilities, and operation entrances and exits to the children's area [Medium]; and
    - (C) The nature of other activities and persons who may be sharing the toilet and hand washing sinks. [Medium]
- (b) You must follow your written plan, and submit a copy to Licensing upon request. [Medium-High]

### **Helpful Information**

- The intent of the written plan regarding shared space is to protect and reduce risk to the children in care at your operation.
- Your plan will be unique and should take into consideration your program and other programs using the space. For this reason no two written plans will look the same.
- It is important to review and update your written plan anytime there are changes in what programs use the space, the nature of these programs, or the needs of the children in your care.

## Division 4, Telephone

### §744.3051. Must I have a telephone at my operation?

*Subchapter M, Physical Facilities*

*Division 4, Telephone*

*April 2017*

Yes. You must have:

- (1) A telephone at your operation with a listed telephone number [Medium-High]; or
- (2) Access to a telephone located in the same building for use in an emergency and where a person is available to:
  - (A) Receive incoming calls to the operation [Medium-High];
  - (B) Immediately transmit messages regarding children in care to operation caregivers [Medium-High]; and
  - (C) Make outgoing calls for the operation as necessary. [Medium-High]

#### Helpful Information

A working telephone is necessary for routine and emergency outgoing and incoming calls. A listed telephone number ensures parents and others may contact the caregiver when necessary.



## Division 5, Indoor Lofts

### §744.3071. May I have indoor lofts?

*Subchapter M, Physical Facilities*

*Division 5, Indoor Lofts*

*September 2010*

- (a) You may have an indoor loft that is designed and used as an extension of the classroom if you comply with the following safety standards:
  - (1) Caregivers must be able to adequately supervise children at all times [Medium-High];
  - (2) Stairs and steps, regardless of height, must have handrails the children can reach. Rung ladders do not require handrails [Medium-High]; and
  - (3) Platforms over 20 inches in height must be equipped with protective barriers that prevent children from crawling over or falling through the barrier, or becoming entrapped. [Medium-High]
- (b) If a loft is used as indoor active play space, it must comply with minimum standards as specified in Subchapter N of this chapter (relating to Indoor and Outdoor Active Play Space and Equipment). [Medium-High]

Helpful Information
Lofts used as an extension of the classroom, are set up and used by children as an interest area such as a reading corner or listening station.

# Subchapter N, Indoor and Outdoor Active Play Space and Equipment

## Division 1, Minimum Safety Requirements

### §744.3101. What minimum safety requirements must my active play equipment meet?

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 1, Minimum Safety Requirements*

*April 2017*

- (a) Indoor and outdoor active play equipment used both at and away from the operation must be safe for the children as follows:
- (1) The indoor and outdoor active play equipment must be arranged so that caregivers can adequately supervise children at all times [High];
  - (2) The design, scale, and location of the equipment must be used according to the manufacturer's instructions [Medium-High];
  - (3) Equipment must not have openings or angles that can entrap a child's body or body part that has penetrated the opening [High];
  - (4) Equipment must not have protrusions or openings that can entangle something around a child's neck or a child's clothing [High];
  - (5) Equipment must be securely anchored according to manufacturer's specifications to prevent collapsing, tipping, sliding, moving, or overturning [High];
  - (6) All anchoring devices must be placed below the level of the playing surface to prevent tripping or injury resulting from a fall [High];
  - (7) Equipment must not have exposed pinch, crush, or shear points, on or underneath it [High];
  - (8) Climbing equipment, swings, or inflatables must not be installed over asphalt or concrete unless the asphalt or concrete is covered with properly installed unitary surfacing materials as specified in §744.3259 of this title (relating to What are unitary surfacing materials?) and §744.3261 of this title (relating to How should unitary surfacing materials be installed?) [High];
  - (9) Porches or platforms more than 20 inches in height for pre-kindergarten and younger children, and more than 30 inches in height for school-age children, must be equipped with protective barriers that surround the elevated surface except for entrances and exits and that prevent children from crawling over or through the barrier [High];

- (10) Stairs and steps on climbing equipment, regardless of height, must have handrails the children can reach. Rung ladders do not require handrails [High]; and
- (11) If you are licensed to provide only care in a public school facility operated by the local independent school district, you must inform parents in writing at the time they enroll their child if the active play equipment you plan to use at the public school facility does not meet Licensing standards specified in this subchapter. Otherwise, children must not be allowed to use equipment that does not meet Licensing standards. [Medium]
- (b) Equipment that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency, such as gym floors and mats, platforms and steps used in gymnastics programs, are not subject to the safety requirements specified in subsection (a)(8) – (10) of this section provided:
- (1) The equipment or surfacing is installed and used according to manufacturer's instructions or industry standards [Medium-High];
  - (2) A child's use of the equipment is supervised by trained personnel [Medium-High];
  - (3) The safety practices employed by the operation and the risks associated with the use of each type of equipment are outlined in your policies and procedures [Medium]; and
  - (4) Parents provide written consent before children use the equipment. Written consent must be kept on file at the operation in the child's record. [Medium]

### Helpful Information

- Head entrapment by head-first entry generally occurs when children place their heads through an opening in one orientation, turn their heads to a different orientation, then are unable to withdraw from the opening.
- Head entrapment by feet-first entry involves children who generally sit or lie down and slide their feet into an opening that is large enough to permit passage of their bodies – greater than 3 ½" – but is not large enough to permit passage of their heads – less than 9".

## **§744.3103. What additional safety requirements must my indoor equipment meet?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 1, Minimum Safety Requirements*

*September 2010*

Indoor equipment used both at and away from the operation must be safe for the children as follows:

- (1) Floor surfaces under indoor equipment designed for climbing must have a unitary shock- absorbing surface that will effectively cushion the fall of a child. The surface must be installed in the use zone and maintained according to the manufacturer's directions. See §744.3201 of this title (relating to What does Licensing mean by the term "use zone"?). Carpeting alone, even if it is installed over thick padding, is not an acceptable resilient surface under indoor climbing equipment [Medium-High];
- (2) Platforms over 20 inches in height for pre-kindergarten and younger children, and more than 30 inches in height for school-age children, must be equipped with protective barriers that prevent children from crawling over or falling through the barrier, or becoming entrapped [Medium-High]; and
- (3) If your program uses specialized equipment that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency, such as parallel bars and trampolines used in gymnastics programs:
  - (A) The equipment must be installed and used according to manufacturer's instructions and supervised by trained personnel [Medium-High];
  - (B) The safety practices employed by the operation and the risks associated with the use of each type of equipment must be thoroughly outlined in your policies and procedures [Medium]; and
  - (C) Parents must provide written consent before children may use the equipment. Written consent must be kept on file at the operation in the child's record. [Medium]

## **§744.3105. Are there some types of equipment that children must not use?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 1, Minimum Safety Requirements*

*September 2010*

- (a) Yes. Children must not use the following types of equipment at or away from the operation:
  - (1) Heavy swings made of metal or that have metal components, such as animal figure swings [Medium-High];
  - (2) Equipment that allows children to fall inside the structure and onto other parts of the structure, such as certain styles of monkey bars or jungle gyms [High];
  - (3) Trampolines, except those less than four feet in diameter that are no higher than 12 inches above a properly installed and maintained resilient surface [Medium-High];
  - (4) Swinging exercise rings and trapeze bars on long chains or swinging rope [Medium-High];
  - (5) Multiple occupancy swings, such as teeter-totters, gliders, or chair swings (other than tire swings) [Medium-High]; or
  - (6) Swinging gates and giant strides. [Medium]
- (b) Equipment that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency, such as trampolines and exercise rings and ropes used in gymnastics programs, may be used if:
  - (1) The equipment is installed and used according to manufacturer's instructions [Medium-High];
  - (2) A child's use of the equipment is supervised by trained personnel [Medium-High];
  - (3) The safety practices employed by the operation and the risks associated with the use of each type of equipment are outlined in your policies and procedures [Medium]; and
  - (4) Parents provide written consent before children use the equipment. Written consent must be kept on file at the operation in the child's record. [Medium]

## Helpful Information

Swinging gates have a metal post with vertical bars. Children place their feet between the bars and push the gate as they pivot around the post. Children can create a great deal of speed while playing and can be thrown from this piece of equipment resulting in serious injury.

### **§744.3107. Are there additional equipment restrictions for children younger than five years of age?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 1, Minimum Safety Requirements*

*April 2017*

- (a) Yes. Children younger than five years of age must not be allowed to use the following pieces of equipment at or away from the operation:
  - (1) Free standing arch climbers [Medium-High];
  - (2) Free standing climbing pieces with flexible parts [Medium-High];
  - (3) Fulcrum seesaws [Medium-High];
  - (4) Log rolls [Medium-High];
  - (5) Spiral slides with more than one 360 degree turn [Medium-High]; or
  - (6) Track rides. [Medium-High]
- (b) In addition, children younger than four years of age must not be allowed to use the following pieces of equipment at or away from the operation:
  - (1) Chain or cable walks [Medium-High];
  - (2) Horizontal ladders [Medium-High];
  - (3) Vertical slide poles [Medium-High];
  - (4) Over-head swinging rings [Medium-High]; or
  - (5) Parallel bars. [Medium-High]
- (c) Equipment that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency, such as swinging rings and parallel bars used in gymnastics programs, may be used if:
  - (1) The equipment is installed and used according to manufacturer's instructions [Medium-High];
  - (2) A child's use of the equipment is supervised by trained personnel [Medium-High];
  - (3) The safety practices employed by the operation and the risks associated with the use of each type of equipment are outlined in your policies and procedures [Medium]; and
  - (4) Parents provide written consent before children use the equipment. Written consent must be kept on file at the operation in the child's record. [Medium]

### Helpful Information

Children younger than 5 years have not developed the upper body strength, balance, postural control, and coordination required to successfully and safely play on equipment such as over head rings and track rides.

## §744.3109. What is the maximum height of the highest designated play surface allowed?

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 1, Minimum Safety Requirements*

*September 2010*

- (a) The maximum height of the highest designated play surface on active play equipment is based on the age of children who will be using the equipment.
- (b) The maximum height allowed is:
  - (1) Five feet for equipment designed to be used by children younger than five years old [Medium-High]; or
  - (2) Seven feet for equipment designed to be used by children who are at least five years old. [Medium-High]
- (c) Equipment that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency, such as parallel bars and trampolines used in gymnastics programs, may exceed the maximum height allowed if:
  - (1) The equipment is installed and used according to manufacturer's instructions [Medium-High];
  - (2) A child's use of the equipment is supervised by trained personnel [Medium-High];
  - (3) The safety practices employed by the operation and the risks associated with the use of each type of equipment are outlined in your policies and procedures [Medium]; and
  - (4) Parents provide written consent before children use the equipment. Written consent must be kept on file at the operation in the child's record. [Medium]

### Helpful Information

Equipment heights can double the probability of a child getting injured from a fall. Research has shown equipment over 8 feet has close to three times the injury rate of equipment under that height. Considering the ceiling height in the average home is eight to ten feet, a four-foot child falling from a platform more than eight feet high is the equivalent of a child falling from a second-story window.

## **§744.3111. What is the maximum height allowed for the highest designated play surface if my operation was licensed before September 1, 2010?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 1, Minimum Safety Requirements*

*April 2017*

- (a) If you were licensed before September 1, 2010, the maximum height allowed for the highest designated play surface on active play equipment is:
  - (1) Six feet for equipment designed to be used by children younger than five years old [Low]; or
  - (2) Eight feet for equipment designed to be used by children five years old and older. [Low]
- (b) If your operation re-designs the existing playground or adds new playground equipment, then as the changes are made you must meet equipment height requirements specified in §744.3109 of this title (relating to What is the maximum height of the highest designated play surface allowed?). You must submit a written plan for compliance to us upon request. [Low]

## **§744.3113. What special maintenance procedures must I follow for my active play space and equipment?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 1, Minimum Safety Requirements*

*September 2010*

- (a) The director or designee must inspect the active play space and equipment daily before children begin to play to ensure there are no hazards present. [Medium-High]
- (b) The director or designee must conduct at least monthly inspections of the active play space and equipment, utilizing a general maintenance checklist or safety checklist that includes checking the equipment and surfacing material for normal wear and tear, broken or missing parts, debris or foreign objects, drainage problems, or other hazards. [Medium]
- (c) The director or designee must ensure hazards or defects identified during inspections are removed or repaired promptly, and must arrange for protection of the children or prohibit use of hazardous equipment until the hazards can be removed or repairs can be made. [Medium-High]



- (d) You must keep maintenance inspections and repair records at the operation for review during your hours of operation for at least the previous three months.

[Medium]

### Helpful Information

Studies have linked inadequate maintenance of equipment to injuries on playgrounds. Consider the age and type of equipment, climate, number of children and how they use the equipment, and number and type of persons outside the child-care operation who access the equipment.

## Division 2, Swings

### §744.3151. What are the safety requirements for swings?

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 2, Swings*

*September 2010*

- (a) All swing seats must be constructed of durable, lightweight, rubber, or plastic material. [Medium-High]
- (b) Edges of all swing seats must be smooth or rounded and have no protrusions. [Medium-High]
- (c) Swings must not be attached to a composite play structure. [Medium-High]
- (d) A full bucket seat swing, intended for children under four years of age to use with adult assistance may be used provided the distance between the bottom of the unoccupied swing seat is at least 24 inches above the protective surfacing.

## **§744.3153. Are there additional safety requirements for tire swings or other multi- axis swings?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 2, Swings*

*September 2010*

Yes. Tire swings must:

- (1) Not be made from heavy truck tires, or tires with exposed steel-belted radials [Medium-High];
- (2) Not be suspended from a composite structure or with other swings in the same swing bay [Medium-High];
- (3) Have drainage holes drilled in the underside of the tire and maintained to facilitate water drainage [Medium-High]; and
- (4) Have a minimum clearance between the seating surface of a tire swing and the uprights of the supporting structure of 30 inches or more when the tire is in a position closest to the support structure. [Medium-High]

## **Division 3, Use Zones**

### **§744.3201. What does Licensing mean by the term “use zone”?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 3, Use Zones*

*September 2010*

The use zone is the surface area under and around a piece of equipment onto which a child falling from or exiting from the equipment would be expected to land. Other than the equipment itself, the use zone must be free of obstacles that a child could run into or fall on top of and be injured.

## **§744.3203. How do I measure the use zone for stationary equipment?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 3, Use Zones*

*September 2010*

The use zone for stationary equipment, excluding slides and soft contained play equipment, must extend a minimum of six feet in all directions from the perimeter of the equipment. Use zones for stationary equipment must not overlap other use zones.

### **Helpful Information**

Stationary equipment (also known as a composite play structure) refers to playscapes, or structures containing equipment for a variety of activities, such as slides, climbing apparatus, bridges and platforms.

## **§744.3205. How do I measure the use zone for slides?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 3, Use Zones*

*September 2010*

- (a) The use zone in front of the access and to the sides of a slide must extend a minimum of six feet from the perimeter of the equipment. [Medium-High]
- (b) For slides six feet high or less, the use zone in front of the exit of a slide must extend at least six feet. [Medium-High]
- (c) For slides greater than six feet high, the use zone in front of the exit of a slide must be equal to the distance from the slide platform to the protective surfacing up to a maximum of eight feet. [Medium-High]
- (d) The use zone in front of the slide exit must not overlap the use zone of any other equipment. [Medium-High]

## **§744.3207. How do I measure the use zone for to-fro swings?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 3, Use Zones*

*September 2010*

- (a) The use zone to the front and rear of to-fro swings (single-axis swings) must extend twice the height of the vertical distance from the swing beam to the protective surfacing below. [Medium-High]
- (b) The use zone to the front and rear of the to-fro swing must not overlap any other use zone. [Medium-High]
- (c) The use zone around the sides of the to-fro swing structure (frame which supports the swings) must be at least six feet and may overlap the use zone of an adjacent swing structure. [Medium-High]

## **§744.3209. How do I measure the use zone for tire swings?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 3, Use Zones*

*April 2017*

- (a) The use zone for tire swings or other multi-axis swings must extend in all directions for a distance equal to the distance from the swing beam to the top of the sitting surface of the tire, plus six feet. [Medium-High]
- (b) The use zone specified in subsection (a) of this section must not overlap any other use zone. [Medium-High]
- (c) The use zone on the sides of the tire swing support structure must be at least six feet and may overlap the use zone on the sides of an adjacent swing support structure. [Medium-High]

## **§744.3211. How do I measure the use zone for bucket swings?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 3, Use Zones*

*September 2010*

- (a) The use zone to the front and rear of the bucket swing must be at least two times the vertical distance from the swing beam to the top of the swing-sitting surface. [Medium-High]
- (b) The use zone specified in subsection (a) of this section must not overlap any other use zone. [Medium-High]
- (c) The use zone on the sides of the bucket swing structure must be at least six feet and may overlap the use zone on the sides of an adjacent swing support structure. [Medium-High]

## **§744.3213. How do I measure the use zone for rotating or rocking equipment?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 3, Use Zones*

*September 2010*

- (a) The use zone for rotating or rocking equipment on which the child sits must be at least six feet from the perimeter when not in use. [Medium-High]
- (b) The use zone for rotating or rocking equipment or track rides on which the child stands or rides must be at least seven feet from the perimeter of the equipment when not in use. [Medium-High]
- (c) The use zone for rocking and rotating equipment must not overlap any other use zone. [Medium-High]

## **§744.3215. Do the use zone requirements apply to my operation if it was licensed before September 1, 2003?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 3, Use Zones*

*September 2010*

(a) If you were licensed before September 1, 2003, you must at least maintain the following use zones, unless you meet one of the conditions specified in subsection

(b) of this section:

(1) Four feet from climbing structures [Medium-Low];

(2) Five feet from the bottom of a slide. The other parts of the slide are considered a climbing structure [Medium-Low];

(3) Seven feet plus the length of a swing's chain from the point of suspension [Medium-Low]; and

(4) Seven feet from a merry-go-round or other revolving devices. [Medium-Low]

(b) An operation licensed before September 1, 2003, must comply with the use zone requirements specified in this division, under the following circumstances:

(1) An operation re-designs the existing playground or adds new playground equipment. The permit holder must meet use zone requirements specified in this division as the changes are made. You must submit a written plan for compliance to us upon request [Medium-Low]; or

(2) Your existing permit is no longer valid. [Medium-Low]

## Division 4, Surfacing

### §744.3251. What type of surfacing must I have under my active play equipment?

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 4, Surfacing*

*April 2017*

- (a) There must be loose-fill surfacing material or unitary surfacing material in the use zones for all climbing, rocking, rotating, bouncing, or moving equipment, slides, and swings. [Medium-High]
- (b) The height of the highest designated play surface on the equipment will determine the depth of loose materials or the attenuation rating (thickness) of the unitary materials. [Medium-High]

#### Helpful Information

Studies have shown that falls to the surface are the leading cause of playground injuries in children. Shock-absorbing surfaces can help disperse the momentum of a falling body or head, thus, reducing the risk of life threatening injuries.

### §744.3253. What are acceptable loose-fill surfacing materials?

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 4, Surfacing*

*September 2010*

Loose-fill surfacing materials include, but are not limited to, loose particles such as sand, pea gravel, shredded wood products, and shredded rubber. [Medium-High]

## §744.3255. How should outdoor loose-fill surfacing materials be installed?

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 4, Surfacing*

*April 2017*

- (a) If you use loose-fill surfacing materials in your outdoor active play space, you must install and maintain nine inches or more of uncompressed loose-fill material in the use zones. [Medium-High]
- (b) You must not install loose-fill surfacing materials over concrete or asphalt. [Medium-High]
- (c) You must mark all equipment support posts to indicate the depth at which the loose-fill surfacing material must be maintained under and around the equipment. [Medium]
- (d) You must ensure the loose-fill materials are maintained at the proper depth at all times. [Medium-High]
- (e) Loose-fill surfacing materials must not be used indoors. [Medium-High]

### Helpful Information

Loose-fill surfacing materials require special maintenance. Playgrounds should be checked frequently to ensure surfacing has not displaced significantly, especially those areas most subject to displacements such as swings and slide exits. Rake loose-fill material back into place as needed.

## §744.3259. What are unitary surfacing materials?

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 4, Surfacing*

*September 2010*

Unitary surfacing materials are manufactured materials including rubber tiles, mats, or poured-in-place materials cured to form a unitary shock-absorbing surface.

[Medium]



## **§744.3261. How should unitary surfacing materials be installed?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 4, Surfacing*

*September 2010*

- (a) If you use unitary materials, they must be installed and maintained according to manufacturer's specifications. [Medium-High]
- (b) Unitary materials may be installed over concrete or asphalt only if recommended by the manufacturer. [Medium-High]

## **§744.3263. What documentation must I keep at the operation if I use unitary surfacing materials?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 4, Surfacing*

*September 2010*

If you use unitary surfacing materials, you must have test data from the manufacturer showing the impact rating of the material (the maximum height of equipment that may be installed over the surfacing material), and installation and maintenance requirements. This documentation must be at the operation and made available for review by parents and Licensing staff upon request during your hours of operation. [Medium]

## **Division 5, Soft Contained Play Equipment**

### **§744.3301. What is soft contained play equipment?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 5, Soft Contained Play Equipment*

*September 2010*

Soft contained play equipment is a play structure that:

- (1) Is fully enclosed with pliable material such as net, plastic, or fabric [Medium-High];
- (2) The user enters to access one or more play components [Medium-High]; and
- (3) Allows caregivers to supervise children as specified in §744.1205 of this title (relating to What does Licensing mean by "supervise children at all times"?). [Medium-High]

## **§744.3303. Are there additional safety requirements for soft contained play equipment?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 5, Soft Contained Play Equipment*

*September 2010*

Yes. Soft contained play equipment must:

- (1) Not have to-fro, bucket, or tire swings attached inside or outside of the structure [Medium-High];
- (2) Have no more than a 24-inch difference in height between two connecting platforms [Medium-High];
- (3) Have use zones as outlined in §744.3305 of this title (relating to How do I measure the use zone for soft contained play equipment?) that are free of obstacles and covered with unitary surfacing material [Medium-High];
- (4) Be installed, maintained and cleaned according to manufacturer's instructions [Medium-High]; and
- (5) Include closer supervision when in use by requiring at least one caregiver to be positioned at each level of the play area. [Medium-High]

## **§744.3305. How do I measure the use zone for soft contained play equipment?**

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 5, Soft Contained Play Equipment*

*September 2010*

- (a) The use zone for entrances and exits to the soft contained play equipment, excluding slide exits, is a minimum of five feet from all portions of the entrance and exit which are outside of the contained area of the equipment. [Medium-High]
- (b) The use zone in front of slide exits must extend a minimum of five feet if the slide run-out is 36 inches or greater. If the slide run-out is less than 36 inches, the use zone at the end of the slide must be six feet. In addition, this use zone may not overlap with any other use zones. [Medium-High]
- (c) Entrances and exits that terminate inside of the soft contained play equipment are exempt from use zone requirements. [Medium-High]
- (d) External portions of the soft contained play equipment that contain no designated play surfaces and serve only to enclose the equipment are exempt from use zone requirements. [Medium-High]
- (e) The critical height of resilient surfacing material must be equal to the highest designated play surface outside of the contained area of the equipment or for one foot, which ever is greater. [Medium-High]

## Division 6, Inflatables

### §744.3351. May I use inflatable active play equipment?

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment*

*Division 6, Inflatables*

*April 2017*

You may use inflatable equipment both at and away from your operation if you follow these guidelines:

- (1) You use enclosed inflatables (such as bounce houses or moon walks) according to the manufacturer's instructions [Medium-High];
- (2) You use open inflatables (such as obstacle courses, slides, or games) according to the manufacturer's instructions [Medium-High]; and
- (3) Inflatables that include water activity also comply with all applicable requirements in Subchapter O of this chapter (relating to Swimming Pools, Wading/Splashing Pools, and Sprinkler Play). [Medium-High]

## Subchapter O, Swimming Pools, Wading/Splashing Pools, and Sprinkler Play

### **§744.3401. What safety precautions must I follow when children in my care use a swimming pool?**

*Subchapter O, Swimming Pools, Wading/Splashing Pools, and Sprinkler Play*

*September 2010*

In addition to complying with the child/caregiver ratios specified in §744.1905 of this title (relating to What are the child/caregiver ratios for swimming activities?) and other safety requirements specified in §744.1907 of this title (relating to Must a certified lifeguard be on duty when children are swimming in more than two feet of water?) and §744.1911 of this title (relating to Must persons who are counted in the child/caregiver ratio during swimming know how to swim?), you must comply with the following safety precautions when any child uses a swimming pool (more than two feet of water) both at and away from your operation:

- (1) A minimum of two life-saving devices must be available [High];
- (2) One additional life-saving device must be available for each 2,000 square feet of water surface [High];
- (3) Drain grates must be in place, in good repair, and must not be able to be removed without using tools [High];
- (4) Pool chemicals and pumps must be inaccessible to any child [High];
- (5) Machinery rooms must be locked when any child is present [High];
- (6) Employees must be able to clearly see all parts of the swimming area [High];
- (7) The bottom of the pool must be visible at all times [High];
- (8) An adult must be present who is able to immediately turn off the pump and filtering system when any child is in a pool [High]; and
- (9) All indoor/outdoor areas must be free of furniture and equipment that any child could use to scale a fence or barrier or release a lock. [High]

## Helpful Information

The power of suction of a pool drain often requires that the pump be turned off before a child can be removed, therefore immediate unobstructed access is necessary.

### **§744.3403. How should the swimming pool be built and maintained?**

*Subchapter O, Swimming Pools, Wading/Splashing Pools, and Sprinkler Play*  
*September 2010*

Swimming pools used both at and away from the operation must be built and maintained according to the standards of the Department of State Health Services for public pools and any other applicable state or local regulations. [High]

### **§744.3405. Do the same safety precautions apply for above-ground pools?**

*Subchapter O, Swimming Pools, Wading/Splashing Pools, and Sprinkler Play*  
*September 2010*

Yes. Above-ground pools must meet all pool safety requirements specified in this subchapter and must have a barrier that prevents a child's access to the pool. [High]

### **§744.3407. Must I have a fence around a swimming pool at my operation?**

*Subchapter O, Swimming Pools, Wading/Splashing Pools, and Sprinkler Play*  
*September 2010*

- (a) You must enclose a swimming pool at your operation with a six-foot fence or wall that prevents children's access to the pool. [High]
- (b) Fence gates leading to the pool area must have self-closing and self-latching hardware out of children's reach. Gates must be locked when the pool is not in use. [High]
- (c) Doors from the operation leading to the pool area must have a lock out of children's reach that can only be opened by an adult. [High]
- (d) These doors and gates must not be designated as fire and emergency evacuation exits. [High]

## §744.3411. What are the safety requirements for wading pools?

*Subchapter O, Swimming Pools, Wading/Splashing Pools, and Sprinkler Play*  
*September 2010*

- (a) Wading/splashing pools (two feet of water or less) at your operation must be:
  - (1) Stored out of children's reach when not in use [Medium-High];
  - (2) Drained at least daily and sanitized [High]; and
  - (3) Stored so they do not hold water. [High]
- (b) You must comply with the safety precautions specified in §744.3401 of this title (relating to What safety precautions must I follow when children in my care use a swimming pool?) when using wading/splashing pools away from your operation. [Medium-High]

### Helpful Information

Wading/splashing pools with no filtering system are meant to be drained, sanitized and stored out of children's reach after each use.

## §744.3413. Are there specific safety requirements for sprinkler play?

*Subchapter O, Swimming Pools, Wading/Splashing Pools, and Sprinkler Play*  
*April 2017*

- (a) You must ensure that no child uses sprinkler equipment on or near a hard, slippery surface, such as a concrete driveway, sidewalk, or patio. [High]
- (b) You must not leave a child alone with the sprinkler equipment. [High]
- (c) You must store sprinkler equipment and water hoses out of the reach of children when not in use. [Medium-High]
- (d) You must maintain your splash pad/sprinkler play area according to manufacturer's instructions. [Medium-High]

**§744.3415. Can children in my care swim in a body of water other than a swimming pool, such as a lake, pond, or river?**

*Subchapter O, Swimming Pools, Wading/Splashing Pools, and Sprinkler Play*  
*September 2010*

No, you must not allow children to swim in a lake, pond, river, or a body of water other than a swimming pool or wading pool that complies with the rules specified in this subchapter. [High]



## Subchapter P, Fire Safety and Emergency Practices

### Division 1, Fire Inspection

#### **§744.3501. Must my operation have an annual fire inspection?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 1, Fire Inspection*

*September 2010*

- (a) Your operation must have a fire inspection before we issue your initial permit and at least once every 12 months, unless your operation is in a public school facility operated by the local independent school district. [High]
- (b) If an inspection is required, a state or local fire marshal must conduct the inspection. If an inspection is not available, you must provide documentation of this from a state or local fire marshal or county judge. [Medium-High]

#### **§744.3503. How do I document that a fire inspection has been completed?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 1, Fire Inspection*

*September 2010*

If required, you must keep a copy of the most recent fire-inspection report, letter, or checklist at the operation during your hours of operation to verify the inspection date and findings. The report must include the name and telephone number of the inspector. [Medium-High]

#### **§744.3505. Must I make all corrections specified in the fire-inspection report?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 1, Fire Inspection*

*April 2017*

Yes, you must comply with all corrections, restrictions, or conditions specified by the inspector in the fire inspection report, letter, or checklist. [High]

## Division 2, Emergency Preparedness

### §744.3551. What is an emergency preparedness plan?

*Subchapter P, Fire Safety and Emergency Practices*

*Division 2, Emergency Preparedness*

*September 2016*

An emergency preparedness plan is designed to ensure the safety of children during an emergency by addressing staff responsibility and facility readiness with respect to emergency evacuation, relocation, and sheltering/lock-down. The plan addresses the types of responses to emergencies most likely to occur in your area including:

- (1)An evacuation of the children and caregivers to a designated safe area in an emergency such as a fire or gas leak;
- (2)A relocation of the children and caregivers to a designated, alternate shelter in an emergency such as a flood, a hurricane, medical emergency, or communicable disease outbreak; and
- (3)The sheltering and lock-down of children and caregivers within the operation to temporarily protect them from situations such as a tornado, volatile person on the premises, or an endangering person in the area.

#### Helpful Information

You may want to check with your local fire and health departments when creating your emergency preparedness plan since they may have resources and guidelines that you may include in your plan.

## **§744.3553. What must my emergency preparedness plan include?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 2, Emergency Preparedness*

*September 2016*

Your emergency preparedness plan must include written procedures for:

- (1) Evacuation, relocation, and sheltering/lock-down of children including:
  - (A) The first responsibility of staff in an emergency evacuation or relocation is to move the children to a designated safe area or alternate shelter known to all employees, caregivers, parents, and volunteers [Medium-High];
  - (B) How children will be evacuated or relocated to the designated safe area or alternate shelter, including but not limited to specific procedures for evacuating and relocating children with limited mobility or who otherwise may need assistance in an emergency, such as children who have mental, visual, or hearing impairments [Medium-High];
  - (C) An emergency evacuation and relocation diagram as outlined in §744.3561 of this title (relating to Must I have an emergency evacuation and relocation diagram?) [Medium-High];
  - (D) The staff responsibility in a sheltering/lock-down emergency for the orderly movement of children to a designated location within the operation where children should gather [Medium-High];
  - (E) Name and address of the alternate shelter away from the operation you will use as needed [Medium-High]; and
  - (F) How children in attendance at the time of the emergency will be accounted for at the designated safe area or alternate shelter [Medium-High];
- (2) Communication, including:
  - (A) The emergency telephone number that is on file with us [Medium-High]; and
  - (B) How you will communicate with local authorities (such as fire, law enforcement, emergency medical services, health department), parents and us [Medium-High]; and
- (3) How your staff will evacuate and relocate with the essential documentation including:
  - (A) Parent and emergency contact telephone numbers for each child in care [Medium-High];
  - (B) Authorization for emergency care for each child in care [Medium-High]; and
  - (C) The child tracking system information for children in care [Medium-High];

- (4)How your staff will continue to care for children until each child has been released [Medium-High]; and
- (5)How you will reunify the children with their parents as the evacuation, relocation, or sheltering/lock-down is lifted. [Medium-High]

### Helpful Information

- Keep in mind that children may become anxious or excited during an emergency so it is important that caregivers remain calm.
- According to the AAP, a thorough and safe evacuation plan includes a designated location that allows the children to get at least 50 feet away from the building, does not require the children or caregivers to cross the street, and provides shelter if the children cannot return to the building.

## **§744.3557. Who must coordinate the implementation of an emergency preparedness plan?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 2, Emergency Preparedness*

*September 2010*

- (a)The director is responsible for implementing the emergency preparedness plan. [Medium]
- (b)The director may also designate additional employees to be in charge during an emergency evacuation and relocation that occurs when the director is not at the operation. [Medium]

## §744.3559. Must I practice my emergency preparedness plan?

*Subchapter P, Fire Safety and Emergency Practices*

*Division 2, Emergency Preparedness*

*September 2016*

The following components of your operation's emergency preparedness plan must be practiced as specified below:

- (1) You must practice a fire drill every month. The children must be able to safely exit the building within three minutes [Medium-High];
- (2) You must practice a sheltering drill for severe weather at least four times in a calendar year [Medium-High];
- (3) You must practice a lock-down drill for a volatile or endangering person on the premises or in the area at least four times in a calendar year [Medium-High]; and
- (4) You must document these drills, including the date of the drill, time of the drill, and length of time for the evacuation, sheltering, or lock-down to take place. [Medium]

### Helpful Information

We recommend that you practice your drills at different times of the day to include various children and employees engaged in different activities.

## **§744.3561. Must I have an emergency evacuation and relocation diagram?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 2, Emergency Preparedness*

*April 2017*

- (a) Yes. Your emergency evacuation and relocation diagram must be on file at the operation and must show the following [Medium-High]:
  - (1) A floor plan of your operation [Medium-High];
  - (2) Two exit paths from each room, unless a room opens directly to the outdoors at ground level [Medium-High];
  - (3) The designated location outside of the operation where all caregivers and children meet to ensure everyone has exited the operation safely [Medium-High]; and
  - (4) The designated location inside the operation where all caregivers and children take shelter from threatening weather. [Medium-High]
- (b) You must post an emergency evacuation and relocation diagram in each room the children use. You must post the diagram near the entrance and/or exit of the room and where children and employees may easily view the diagram. [Medium-High]

## **§744.3563. How many exits must my operation have?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 2, Emergency Preparedness*

*September 2010*

- (a) The operation must have at least two exits to the outside that are located in distant parts of each building. [Medium-High]
- (b) If any doors open into a fenced yard, the children must be able to open the doors easily from the inside. [High]
- (c) You may not count doors that are blocked or locked as exits. [High]
- (d) An exit through a kitchen or other hazardous area may not be one of the required exits unless the state or local fire marshal specifically approves in writing. [Medium-High]
- (e) Doors and gates leading into a pool area may not be counted as an exit. [High]
- (f) A window may be used as a designated fire exit only if all children and caregivers are physically able to exit through the window to the ground outside safely and quickly. [Medium-High]

## **§744.3565. Must I have emergency lighting in case of an emergency evacuation?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 2, Emergency Preparedness*

*September 2010*

Yes. You must have a source of emergency lighting that is approved by the state or local fire marshal, or battery-powered lighting, available in each classroom in case of electrical failure. [Medium-High]



## **Division 3, Fire Extinguishing and Smoke Detection Systems**

### **§744.3601. Must my operation have a fire-extinguishing system?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 3, Fire Extinguishing and Smoke Detection Systems*

*September 2010*

Your operation must have a fire-extinguishing system. This may be a sprinkler system and/or fire extinguishers. If your program is located in a public school facility operated by the local school district, the fire-extinguishing system utilized by the school complies with this standard. [High]

### **§744.3603. Who must approve my fire-extinguishing system?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 3, Fire Extinguishing and Smoke Detection Systems*

*September 2010*

The state or local fire marshal must approve a sprinkler system and/or fire extinguishers in your operation. If an inspection is not available, you must have at least one fire extinguisher rated 3A-40BC in the operation. [Medium-High]

## §744.3605. Where must I mount fire extinguishers?

*Subchapter P, Fire Safety and Emergency Practices*

*Division 3, Fire Extinguishing and Smoke Detection Systems*

*April 2017*

You must mount all fire extinguishers on the wall by a hanger or bracket. The top of all extinguishers must be no higher than five feet above the floor and the bottom at least four inches above the floor or any other surface. If the state or local fire marshal or the manufacturer's instructions has different mounting instructions, you must follow those instructions. All fire extinguishers must be readily available for immediate use by employees and caregivers. [Medium-High]

### Helpful Information

- The first priority for caregivers is to remove the children from the operation safely and quickly. Fighting a fire is secondary to the safe exit of the children and caregivers.
- Mounting the extinguisher ensures easy access for swift use and prevents accidental discharge that may result from tipping or being knocked over.

## §744.3607. How often must I inspect and service the fire extinguisher(s)?

*Subchapter P, Fire Safety and Emergency Practices*

*Division 3, Fire Extinguishing and Smoke Detection Systems*

*April 2017*

- (a) The director or designee must inspect all fire extinguishers monthly. The date of the inspection and the name of the director or designee who inspects the extinguisher(s) must be recorded and kept at the operation for review during your hours of operation. [Medium-High]
- (b) Fire extinguishers must be serviced as required by manufacturer's instructions, or as required by the state or local fire marshal. [Medium-High]

## **§744.3609. How often must I inspect a sprinkler system?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 3, Fire Extinguishing and Smoke Detection Systems*

*September 2010*

The system monitoring company or the state or local fire marshal must test sprinkler systems at least annually. You must keep the most recent inspection report at the operation for review during your hours of operation. The documentation must indicate the date of the inspection and the inspector's name and telephone number. [Medium-High]

## **§744.3611. Must my operation have a smoke-detection system?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 3, Fire Extinguishing and Smoke Detection Systems*

*September 2010*

- (a) Your operation must have a working smoke-detection system. This may be an electronic alarm and smoke-detection system, or individual electric or battery-operated smoke detectors located in each room used by children, or both. [High]
- (b) If your operation is located in a public school facility operated by the local independent school district, the smoke-detection system utilized by the school complies with this standard. [High]

## **§744.3613. Who must approve my operation's smoke-detection system?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 3, Fire Extinguishing and Smoke Detection Systems*

*September 2010*

The state or local fire marshal must approve electronic alarm and smoke-detection systems. If an inspection is not available, you must have at least one working smoke detector in each room used by children. [High]

## **§744.3615. How often must I have an electronic smoke alarm system tested?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 3, Fire Extinguishing and Smoke Detection Systems*

*September 2010*

The monitoring company or the state or local fire marshal must test an electronic smoke alarm system at least annually. You must keep documentation of the inspection at the operation for review during your hours of operation. The documentation must indicate the date of the inspection and the inspector's name and telephone number. [Medium-High]

## **§744.3617. How must smoke detectors be installed at my operation?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 3, Fire Extinguishing and Smoke Detection Systems*

*September 2010*

If you use smoke detectors, they must be installed and maintained according to the manufacturer's instructions or in compliance with the state or local fire marshal's instructions. [High]

## **§744.3619. How often must the smoke detectors at my operation be tested?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 3, Fire Extinguishing and Smoke Detection Systems*

*April 2017*

The director or designee must test all smoke detectors monthly. The date of the test and the name of the director or designee who does the testing must be documented and kept at the operation for review during your hours of operation. [High]

### **Helpful Information**

A monthly test of smoke detectors is easily handled by the operation director or designee. Monthly testing ensures detectors are working properly and helps ensure the safety of the children and employees in case of fire.

## **Division 4, Gas and Propane Tanks**

### **§744.3651. Must my operation be inspected for gas leaks?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 4, Gas and Propane Tanks*

*September 2010*

If your operation uses natural or liquid propane (LP) gas, your operation must be inspected for gas leaks before we issue your initial permit, and once every two years after your permit is issued, unless your operation is located in a public school building operated by the local independent school district. [Medium-High]

### **§744.3653. Who must conduct the inspection for gas leaks?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 4, Gas and Propane Tanks*

*September 2010*

- (a) If your operation uses natural gas, you must have your operation inspected for gas leaks by a licensed plumber or a gas company official. [Medium-High]
- (b) If your operation uses liquid propane (LP)-gas, you must have your LP-gas system inspected for proper installation and leaks by a licensed LP-gas servicing company or licensed plumber who is also licensed with the LP-gas section of the Texas Railroad Commission. [Medium-High]

### **§744.3655. How do I document that a gas leak inspection has been completed?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 4, Gas and Propane Tanks*

*September 2010*

A written gas inspection report must show your gas system is free of leaks and must indicate the date of the inspection, as well as the name and telephone number of the inspector. You must keep the most recent inspection report on file at your operation. [Medium-High]

## **§744.3657. Must I make all corrections specified in the gas inspection report?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 4, Gas and Propane Tanks*

*September 2010*

You must comply with all corrections, conditions, or restrictions specified in the gas inspection report within the timeframes specified by the inspector. [High]

## Division 5, Heating Devices

### §744.3701. What steps must I take to ensure that heating devices do not present hazards to children?

*Subchapter P, Fire Safety and Emergency Practices*

*Division 5, Heating Devices*

*September 2010*

- (a) Gas appliances must have metal tubing and connections, be in good repair, and be free from leaks. [High]
- (b) Open flame heaters (heaters where the flame can be easily touched or accessed) are prohibited. [High]
- (c) Space heaters must be enclosed and have the seal of approval of a United States test laboratory or be approved by the state or local fire marshal. [High]
- (d) You must safeguard floor and wall furnace grates, steam and hot water pipes, and electric space heaters so that children do not have access to them. [High]
- (e) Liquid fuel heaters are prohibited. [High]
- (f) Gas fuel heaters, fireplaces, and wood-burning stoves must be properly vented to the outside. [High]
- (g) If you use a fireplace, wood-burning stove, or space heater, you must install a screen or guard with sufficient strength to prevent children from falling into the fire or against the stove or heater. [High]

#### Helpful Information

Proper venting of heating equipment can prevent accumulation of carbon monoxide gas inside a building. Carbon monoxide is a colorless, odorless, poisonous gas formed when heating units that burn fuel with a flame does not have a sufficient source of combustion air. Carbon-containing fuel that is not burned completely can cause asphyxiation.

## Division 6, Carbon Monoxide Detection Systems

### **§744.3751. Must my operation have a carbon monoxide detection system?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 6, Carbon Monoxide Detection Systems*

*September 2010*

Your operation must be equipped with a working carbon monoxide detection system, unless it is located in a school facility that complies [High]:

- (1) With the school facility standards adopted by the commissioner of education under the Education Code, §46.008 [Medium-High]; or
- (2) With standards adopted by the board of a local school district that are similar to those described in paragraph (1) of this section. [Medium-High]

### **§744.3753. What type of carbon monoxide detection system must I install?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 6, Carbon Monoxide Detection Systems*

*September 2010*

You must install:

- (1) Individual electric (plug-in or hardwire) or battery-operated carbon monoxide detectors that meet Underwriters Laboratories Inc. requirements (UL-Listed) [Medium-High]; or
- (2) An electronic carbon monoxide detection system connected to an electronic alarm/smoke detection system that is UL-Listed. [Medium-High]



## §744.3755. How many carbon monoxide detectors must be installed in my operation?

*Subchapter P, Fire Safety and Emergency Practices*

*Division 6, Carbon Monoxide Detection Systems*

*September 2010*

- (a) If you use electric or battery-operated carbon monoxide detectors [Medium-High]:
- (1) At least one detector must be installed on every level of each building in the child-care operation [Medium-High]; and
  - (2) The detector(s) must be installed in compliance with the state or local fire marshal's instructions. [Medium-High]
- (b) If you use an electronic carbon monoxide detection system connected to an alarm/smoke detection system, the system must be installed according to the state or local fire marshal's instructions. [Medium-High]

### Helpful Information

If your state or local fire marshal does not inspect your operation or does not have specific requirements for installation of carbon monoxide detectors, follow the manufacturer's instructions for proper location and installation of detectors.

## **§744.3757. How often must I inspect and service the carbon monoxide detection system?**

*Subchapter P, Fire Safety and Emergency Practices*

*Division 6, Carbon Monoxide Detection Systems*

*April 2017*

- (a) If you use electric or battery-operated carbon monoxide detectors:
  - (1) The director or designee must install a new battery in each battery-operated detector at least annually [Medium-High];
  - (2) The director or designee must test all detectors monthly [Medium-High];
  - (3) The date of each monthly test, date of each installation of new batteries, and the name of the director or designee who does the installment of new batteries and each testing must be recorded and kept at the operation for review during your hours of operation. [Medium-High]
- (b) If you use an electronic carbon monoxide detection system connected to an alarm/smoke detection system, you must:
  - (1) Ensure the system monitoring company or the state or local fire marshal tests the system at least annually [Medium];
  - (2) Keep the most recent inspection report at the operation for review during your hours of operation [Medium-High];
  - (3) Ensure the report includes the date of the inspection and the inspector's name and telephone number [Medium]; and
  - (4) Make any corrections required in the report. [Medium-High]

## Subchapter Q, Transportation

### §744.3801. What types of transportation does Licensing regulate?

*Subchapter Q, Transportation*

*April 2017*

We regulate all transportation provided by or for the operation to children in care, including transportation between the home and the school, the school and the operation, the operation and home, the operation or the school and field trip locations, or the operation or the school and other drop off locations. [Medium]

### §744.3803. What type of vehicle may I use to transport children?

*Subchapter Q, Transportation*

*September 2010*

- (a) We do not regulate the type of vehicle you use to transport children, although we recommend that you check with the Texas Department of Motor Vehicles or refer to the federal motor vehicle safety standards regulating transportation to and from school and your operation. [Medium-High]
- (b) For the purpose of this chapter, we categorize vehicle types as:
  - (1) General purpose vehicle--passenger vehicles as defined in the Texas Transportation Code §545.412, and buses that do not meet the federal motor vehicle safety standards for school buses or multi-function school activity buses (MFSAB) [Medium-High];
  - (2) Small school bus--school buses and MFSABs that meet federal motor vehicle safety standards for school buses and MFSABs respectively and have a gross vehicle weight rating (GVWR) of 10,000 pounds or less [Medium-High]; and
  - (3) Large school bus--school buses and MFSABs that meet federal motor vehicle safety standards for school buses and MFSABs respectively and have a GVWR of greater than 10,000 pounds. [Medium-High]
- (c) All vehicles must be maintained in safe operating condition at all times. [Medium-High]

## **§744.3805. What safety precautions must I take when loading and unloading children from the vehicle?**

*Subchapter Q, Transportation*

*April 2017*

You must take the following precautions when loading and unloading children from any vehicle, including any type of bus:

- (1) You must load and unload children at the curbside of the vehicle or in a protected parking area or driveway [High];
- (2) You must not allow a child to cross a street any time before a child enters or exits a vehicle, unless the child is accompanied by an adult [High];
- (3) You must account for all children exiting the vehicle before leaving the vehicle unattended [High]; and
- (4) You must never leave a child unattended in a vehicle. [High]

## **§744.3807. What child passenger safety seat system must I use when I transport children?**

*Subchapter Q, Transportation*

*April 2017*

- (a) You must use a child passenger safety seat system to restrain a child when transporting the child. The restraint system must meet the federal standards for crash-tested systems as set by the National Highway Traffic Safety Administration and must be properly secured in the vehicle according to manufacturer's instructions. [Medium-High]
- (b) You must secure each child in a rear-facing convertible child safety seat, forward-facing child safety seat, child booster seat, safety vest, harness, or a safety belt, as appropriate to the child's age, height, and weight according to manufacturer's instructions for all vehicles specified in subsection (d) of this section, unless otherwise noted in this subchapter. [Medium-High]
- (c) A child 12 years old or younger must not ride in the front seat of a vehicle. [Medium-High]

(d) The following safety restraint devices for a child must be used when the vehicle is on and during all times when the vehicle is in motion:

<b>Weight</b>	<b>If the child is...</b>	<b>Being transported in this type of vehicle as specified in §746.5603(b) of this title (relating to What type of vehicle may I use to transport children?)...</b>	<b>Then the child must be secured in...</b>
High	(1) Three years of age and weighs more than 20 pounds	All vehicles	A rear-facing or forward-facing child safety seat, safety vest or harness according to the manufacturer's instructions;
High	(2) Four years of age and weighs 40 pounds or less	(A) General purpose vehicle and small school bus (B) Large school bus	A forward-facing child safety seat, safety vest or harness according to the manufacturer's instructions; A safety restraint system according to vehicle manufacturer's instruction;

<b>Weight</b>	<b>If the child is...</b>	<b>Being transported in this type of vehicle as specified in §746.5603(b) of this title (relating to What type of vehicle may I use to transport children?)...</b>	<b>Then the child must be secured in...</b>
High	(3) Four years of age, weighs more than 40 pounds, and is less than four feet, nine inches in height; or five years through seven years of age, regardless of weight, and is less than four feet, nine inches in height	(A) General purpose vehicle (B) Small school bus (C) Large school bus	A forward-facing child safety seat, booster seat, safety vest or harness according to the manufacturer's instructions;  A properly fitting safety belt anywhere the child sits in the vehicle; A safety restraint system according to vehicle manufacturer's instruction;

<b>Weight</b>	<b>If the child is...</b>	<b>Being transported in this type of vehicle as specified in §746.5603(b) of this title (relating to What type of vehicle may I use to transport children?)...</b>	<b>Then the child must be secured in...</b>
High	(4) Four years through seven years of age and four feet, nine inches in height or taller	(A) General purpose vehicle (B) Small school bus (C) Large school bus	A booster seat according to the manufacturer's instructions or a properly fitting safety belt anywhere the child sits in the vehicle; A properly fitting safety belt anywhere the child sits in the vehicle; A safety restraint system according to vehicle manufacturer's instruction;
High	(5) Eight years through 14 years of age	(A) General purpose vehicle and small school bus (B) Large school bus	A properly fitting safety belt anywhere the child sits in the vehicle; A safety restraint system according to vehicle manufacturer's instruction.

## **§744.3809. Must caregivers and/or the driver wear a safety belt?**

*Subchapter Q, Transportation*

*September 2010*

- (a) The driver must be properly restrained by a safety belt before starting the vehicle and at all times the vehicle is in motion. [Medium-High]
- (b) All adult passengers in a vehicle transporting children, other than a large school bus, must be properly restrained by safety belts. [Medium-High]

### **Helpful Information**

Studies indicate the use of restraint devices while riding in a vehicle reduces the likelihood of a passenger involved in a vehicle crash suffering serious injury or death.

## **§744.3811. May parents provide the safety seat equipment required for their child?**

*Subchapter Q, Transportation*

*September 2010*

Parents may provide the safety seat system for use in transporting their child, provided the equipment is appropriate and can be properly secured in the vehicle. You must use the equipment according to manufacturer's instructions. [Medium-High]

### **Helpful Information**

Safety restraints are effective in reducing death and injury when they are used properly. According to the AAP, the best child safety seat is one that fits in the vehicle being used, fits the child being transported, has never been in a crash, and is used correctly every time.

## **§744.3813. May I place more than one person in each safety belt?**

*Subchapter Q, Transportation*

*September 2010*

No; only one person may use each safety belt. [Medium-High]



## **§744.3815. May a child ride in a safety belt with a shoulder harness?**

*Subchapter Q, Transportation*

*September 2010*

A child may ride in a safety belt with a shoulder harness if the shoulder harness goes across the child's chest and not across the child's face or neck. The lap belt should fit low across the child's thighs or top of the legs and not across the child's stomach area. Never put a shoulder belt under the child's arm or behind the child's back. If the lap belt and shoulder harness do not fit properly, a booster seat must be used. [High]

## **§744.3817. Must I carry specific information and equipment in the vehicles used to transport children in my care?**

*Subchapter Q, Transportation*

*April 2017*

- (a) You must have the following in each vehicle you use to transport children:
  - (1) A list of the children being transported [High];
  - (2) Emergency medical transport and treatment authorization forms for each child being transported [High];
  - (3) The operation's name and telephone number and the director or permit holder's name. The information must be in the glove compartment or clearly visible inside the passenger compartment, or the operation's name and telephone number must be clearly visible on the outside of the vehicle [Medium-High];
  - (4) Parent's names and telephone numbers and emergency telephone numbers for each child being transported [High];
  - (5) A fire extinguisher approved by the local or state fire marshal, secured in the passenger compartment and accessible to the adult occupants [High]; and
  - (6) A first-aid kit as specified in Division 4 of Subchapter L (relating to First-Aid Kits). [High]
- (b) The driver must have a current driver's license and carry it while transporting children. [High]

### Helpful Information

- Caregivers can respond promptly in emergency situations when they have the proper equipment and necessary telephone numbers in the vehicle.
- The contents of first aid kits deteriorate quickly when exposed to long-term high temperatures common in vehicles and we recommend they be checked and updated often.

## **§744.3819. What plan must I have for transportation emergencies?**

*Subchapter Q, Transportation*

*September 2010*

You must ensure the driver/caregivers have clear instructions in handling emergency breakdowns and accidents, including vehicle evacuation procedures, supervision of the children, and contacting emergency help. The director or designee in charge of the operation must know what action to take in responding to a transportation emergency call.

[Medium-High]

## **§744.3821. What communication requirements are there for a vehicle used to transport children?**

*Subchapter Q, Transportation*

*April 2017*

When transporting children in a vehicle:

- (1)The vehicle must have a communications device such as a cellular phone or two-way radio [Medium-High]; or
- (2)A caregiver at the operation must know the routine arrival and departure times of the vehicle and take action if the vehicle does not return to the operation at a scheduled time. The driver must travel a known fixed route within an approximate timeframe.  
[Medium-High]

## Appendix I: Definitions

*Texas Administrative Code, Title 26 Health and Human Services*

*Part 1, Health and Human Services Commission*

*Chapter 745, Licensing Subchapter A. Precedence and Definitions Division 2. Definitions for Licensing*

### **§745.21. What words must I know to understand this subchapter?**

The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise:

- (1) Abuse--As defined in the Texas Family Code, §261.001(1) (relating to Definitions) and Texas Administrative Code, Title 40, Chapter 707, Subchapter C, Division 5 (relating to Abuse, Neglect, and Exploitation).
- (2) Affinity--Related by marriage as set forth in Texas Government Code, §573.024 (relating to Determination of Affinity).
- (3) Business entity--May be an association, corporation, nonprofit association, nonprofit corporation, nonprofit association with religious affiliation, nonprofit corporation with religious affiliation, or limited liability company.
- (4) Capacity--The maximum number of children that a permit holder may care for at one time.
- (5) Caregiver--A person who is counted in the child to caregiver ratio, whose duties include the supervision, guidance, and protection of a child.
- (6) Child--A person under 18 years old.

- (7) Child-care facility--An establishment subject to regulation by Licensing that provides assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the establishment operates for profit or charges for its services. A child-care facility includes the people, administration, governing body, activities on or off the premises, operations, buildings, grounds, equipment, furnishings, and materials. A child-care facility does not include child-placing agencies, listed family homes, employer-based child care operations, or shelter care operations.
- (8) Child day care--As defined in §745.33 of this chapter (relating to What is child day care?).
- (9) Child-placing agency (CPA)--A person, including a sole proprietor, partnership, or business or governmental entity, other than the parents of a child, who plans for the placement of or places a child in a child care operation or adoptive home.
- (10) Children related to the caregiver--Children who are the children, grandchildren, siblings, great-grandchildren, first cousins, nieces, or nephews of the caregiver, whether by affinity or consanguinity or as the result of a relationship created by court decree.
- (11) Consanguinity--Two individuals are related to each other by consanguinity if one is a descendant of the other; or they share a common ancestor. An adopted child is related by consanguinity for this purpose. Consanguinity is defined in Texas Government Code, §573.022 (relating to Determination of Consanguinity).
- (12) Contiguous operations--Two or more operations that touch at a point on a common border or located in the same building.
- (13) Controlling person--As defined in §745.901 of this chapter (relating to Who is a controlling person at a child-care operation?).
- (14) Deficiency--Any failure to comply with a minimum standard, rule, statute, specific term of your permit, or condition of your probation.
- (15) Designated perpetrator--As defined in §745.731 of this chapter (relating to What are designated perpetrators and sustained perpetrators of child abuse or neglect?).
- (16) Designee--The person named on the application as the designated representative of the operation who is officially authorized by the owner to speak for and act on the operations' behalf.

- (17) Employee--Any person employed by or that contracts with the permit holder, including caregivers, drivers, kitchen personnel, maintenance and administrative personnel, and the center or program director.
- (18) Endanger--To expose a child to a situation where physical or mental injury to a child is likely to occur.
- (19) Exploitation--As defined in Texas Family Code, §261.001(3) and Texas Administrative Code, Title 40, Chapter 707, Subchapter C, Division 5.
- (20) Finding--The conclusion of a Licensing investigation or inspection indicating compliance or deficiency with one or more minimum standards, rules, or statutes.
- (21) Full license--The type of full permit that is issued to an operation that requires a license. See also §745.341 of this chapter (relating to What type of permit does Licensing issue?) and §745.343 of this chapter (relating to What is the difference between an initial license and a full license?).
- (22) Full permit--A full permit includes a listing, registration, compliance certificate, or a full license. See also §745.341 and §745.343 of this chapter.
- (23) Governing body--A group of persons or officers of a business or governmental entity that has ultimate control over the entity.
- (24) Governmental entity--A political subdivision or state agency of Texas.
- (25) Household member--An individual, other than the caregivers, who resides in an operation.
- (26) Initial license--A time-limited license that we issue to certain applicants for a full license in situations described in §745.345 of this chapter (relating to When does Licensing issue an initial license?).
- (27) Licensed administrator--As defined in §745.8905 of this chapter (relating to What is a licensed administrator?).
- (28) Minimum standards-- Minimum requirements for permit holders that are enforced by Licensing to protect the health, safety, and well-being of children. The minimum standards consist of the rules contained in:
  - (A)Chapter 742 of this title (relating to Minimum Standards for Listed Family Homes;
  - (B)Chapter 743 of this title (relating to Minimum Standards for Shelter Care);

- (C) Chapter 744 of this title (relating to Minimum Standards for School-Age and Before or After-School Programs);
  - (D) Chapter 746 of this title (relating to Minimum Standards for Child-Care Centers);
  - (E) Chapter 747 of this title (relating to Minimum Standards for Child-Care Homes);
  - (F) Chapter 748 of this title (relating to Minimum Standards for General Residential Operations);
  - (G) Chapter 749 of this title (relating to Minimum Standards for Child-Placing Agencies);
  - (H) Chapter 750 of this title (relating to Minimum Standards for Independent Foster Homes); and
  - (I) Subchapter D, Division 11 of this chapter (relating to Employer-Based Child Care).
- (29) Neglect--As defined in the Texas Family Code, §261.001(4) and Texas Administrative Code, Title 40, Chapter 707, Subchapter C, Division 5.
  - (30) Operation (also known as a child care operation)--A sole proprietor, partnership, or business or governmental entity offering a program that is subject to Licensing's regulation, including day-care operations and residential child care operations. An operation includes the building and grounds where the program is offered, any person involved in providing the program, and any equipment used in providing the program. An operation includes a child-care facility, child-placing agency, listed family home, employer-based child care operation, shelter care operation, or any operation that requires a permit under Chapter 42, Texas Human Resources Code.
  - (31) Owner—The sole proprietor, partnership, or business or governmental entity that owns an operation that is subject to regulation by Licensing.
  - (32) Parent--A person who has legal responsibility for or legal custody of a child, including the managing conservator or legal guardian.
  - (33) Permit--A license, certification, registration, listing, compliance certificate, or any other written authorization granted by Licensing to operate a child care operation. This also includes an administrator's license.
  - (34) Permit holder--The owner of the operation that is granted the permit.
  - (35) Pre-kindergarten age child--A child who is three or four years of age before the beginning of the current school year.
  - (36) Program--Activities and services provided by an operation.

- (37) Regulation--Includes the following:
  - (A)The development of rules, including minimum standards, as provided by statutory authority; and
  - (B)The enforcement of requirements that are minimum standards, rules, statutes, or any condition or restriction we have placed on a permit. Anyone providing or seeking to provide care or a service that is subject to regulation must comply with the applicable requirements. This includes a permit holder, an applicant for a permit, and anyone providing care or a service without the appropriate permit.
- (38) Report--A communication to Licensing or the Department of Family and Protective Services (DFPS), including the Statewide Intake division of DFPS, of:
  - (A)An allegation of a deficiency in a minimum standard, rule, or statute; or
  - (B)Any other possible risk to a child in the care of an operation that is subject to regulation by Licensing.
- (39) Residential child care--As defined in §745.35 of this chapter (relating to What is residential child care?).
- (40) School-age child--A child who is five years of age or older and is enrolled in or has completed kindergarten.
- (41) State Office of Administrative Hearings (SOAH)--See §745.8831 of this chapter (relating to What is a due process hearing?).
- (42) Sustained perpetrator--See §745.731 of this chapter (relating to Who are designated perpetrators and sustained perpetrators of child abuse or neglect?).

## **Appendix II, Vaccine-Preventable Diseases**

This guide is intended to provide you with more information to assist in the development and implementation of a vaccine-preventable disease policy for your program.

### **What must the policy for protecting children from vaccine-preventable diseases include?**

Your operation is responsible for developing a policy that includes all areas addressed in §744.2581.

### **How will Licensing evaluate for compliance?**

Licensing will review your program's policy to ensure that it covers each of the eight required areas. Licensing staff will ensure that your operation outlines how you will maintain either written or electronic records for each employee's compliance with your policy as well as any exemptions. We will not evaluate based on the content of each policy item.

### **What would be an example of how licensing will evaluate my operation's compliance with the new rule?**

The new rule requires you to specify any vaccines that you have determined an employee must have based on the level of risk the employee presents. Licensing staff will review your policy to ensure you have specified any vaccines an employee must have. For example, if your policy outlines that all employees must only obtain a flu vaccine once every 12 months then we would only review compliance with the employee's requirement to obtain a flu vaccine.

### **What immunizations are recommended for adults?**

The Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention (CDC) develops the recommendations and they are listed on the CDC website at <http://www.cdc.gov/vaccines/schedules/downloads/adult/adult-schedule.pdf>



## **Do I have to require employees to obtain all immunizations recommended by the CDC?**

No, employees at your program will only need to obtain immunizations that are required in your policy. It is up to you to determine what immunizations will be required and which employees are required to obtain them based on their level of risk as determined by their routine and direct exposure with children.

## **How do I determine an employee's level of risk?**

An employee's level of risk is determined by the policy you develop. The basis for determining an employee's level of risk must be outlined in your policy and must be based on the employee's routine and direct exposure to children. Items to consider when you develop policy include:

- What are the employee's primary duties?
- How closely does the employee work with children? (For example, does the employee change diapers, assist with toileting, prepare or serve food)
- How often does the employee work with children? (Regular contact vs. substitute basis)
- What are the ages of children the employee works with?

## **Can an employee be exempt from immunizations that my program's policy requires?**

Yes, an employee may be exempt from one or more of your program's required immunizations for:

- Medical conditions identified as contraindications or precautions by the CDC; or
- Reasons of conscience, including a religious belief.

## **What procedures must an employee follow to be exempt from having a required vaccine?**

Your policy must address exemption procedures an employee must follow in order for you to determine the employee's qualification of an exemption.

## **What are some examples of acceptable documentation for exemptions?**

- For medical conditions, acceptable documentation may include a note from the employee's health care professional providing a statement that the required vaccine is medically contraindicated or poses a significant risk to the health and well-being of the individual.
- For reasons of conscience, acceptable documentation may include a signed and dated statement from the employee that states the employee is exempt for reasons of conscience, including the person's religious beliefs.

## **What are some examples of procedures that an exempt employee must follow to protect children in care from exposure to disease?**

It is up to your operation to determine what and when protective procedures will be required.

Examples of protective procedures include:

- Wearing gloves when handling or cleaning body fluids, such as after wiping noses, mouths, or bottoms, and tending sores;
- Specifying that an employee with open wounds and/or any injury that inhibits hand washing, such as casts, bandages, or braces, must not prepare food or have close contact with children in care;
- Wearing masks when the employee has respiratory symptoms to reduce the spread of droplets to surrounding areas;
- Wearing masks when taking care of children with respiratory symptoms;
- Removing gloves and washing hands immediately after each task to prevent cross-contamination to other children;
- Excluding the employee from direct care when the employee has signs of illness.

## **How can I determine that an employee has complied with my operation's policy?**

You must specify in your policy how you will verify that an employee has complied with your policy. This must include what written and/or electronic documentation you will accept. Examples of documentation may include:

- Copy of the employee's current immunization record;
- Receipt that includes date a required immunization was received;
- Letter signed by a health care professional that lists the date an immunization was received;
- Documentation of exemption for medical reasons from a health care professional;
- Signed and dated statement from the employee for exemption based on a reason of conscience.

## **Where can my employees get the recommended immunizations?**

Individuals should start with their health care provider. Other resources in your area include pharmacies, the health department, and public or community health clinics. For a list of local health departments in Texas visit the Texas Department of State Health Services (DSHS) website at: <http://www.dshs.state.tx.us/regions/lhds.shtm>

## **Are there any other resources available for employees to receive the recommended immunizations?**

Yes, the Adult Safety Net program created by The Texas Department of State Health Services (DSHS) to increase access to vaccination services in Texas for uninsured adults.

## **What is the Adult Safety Net program?**

The Adult Safety Net (ASN) program provides vaccine purchased with public funds to participating clinics to be used for immunizing uninsured adults.

## **How do I find an Adult Safety Net provider in my area?**

Visit the ASN website at [www.dshs.state.tx.us/ASN](http://www.dshs.state.tx.us/ASN) and click on the search page to locate an ASN clinic near you. (Please check with the clinic before visiting to make sure they can see you.)

## Who is eligible to receive vaccinations from the ASN program?

Adults ages 19 years and older that do not have health insurance are eligible to receive ASN vaccines.

## Who is not eligible to receive ASN vaccines?

Individuals who do not qualify for ASN vaccines include:

- Adults who have Medicare, Medicaid, or any other insurance, including private insurance.
- Adults who are underinsured for adult vaccines (e.g., those who have healthcare insurance that does not cover adult vaccines).
- Individuals younger than 19 years of age.

## What vaccines are offered through the ASN program?

The following is a list of vaccines currently offered through the ASN program and a description of the diseases they prevent.

- Hepatitis B Vaccine — prevents infection of the liver by the hepatitis B virus, which can lead to liver cancer, cirrhosis of the liver, liver failure, and death.
- Hepatitis A Vaccine — prevents infection of the liver by the hepatitis A virus. Symptoms of hepatitis A include lack of energy, diarrhea, fever, nausea and jaundice (yellow color to the whites of the eyes or skin).
- Hepatitis A and Hepatitis B Combination Vaccine—see above.
- Human Papillomavirus (HPV) Vaccine — prevents infection from several strains of HPV, including those that cause genital warts and several types of cancer, such as cervical, anal, penile, and throat cancer.
- Measles/Mumps/Rubella (MMR) Vaccine — prevents infection from the measles virus, which can lead to rash, ear infection, brain damage, and death. Prevents infection from the mumps virus, which can cause fever, swollen glands, headache, and can lead to deafness and meningitis. Prevents infection from rubella virus, which can cause rash, arthritis, and miscarriage in pregnant women.
- Pneumococcal Polysaccharide (PPSV23) Vaccine — prevents infection by the *Streptococcus pneumoniae* bacterium, which is one of the most common causes of severe pneumonia and can lead to other types of infections, such as ear infections, sinus infections, meningitis (infection of the lining of the brain and spinal cord), and blood stream infections (bacteremia).

- Tetanus, Diphtheria, and Pertussis (Tdap) Vaccine — prevents tetanus, which can cause muscle spasms, lockjaw, paralysis, and death. Prevents diphtheria, which can cause suffocation and heart failure. Prevents pertussis (known as “whooping cough”), which can cause severe coughing that can lead to rib fractures, pneumonia, and death. The CDC recommends\* one dose for all pregnant women during every pregnancy and all other adults who have not yet received Tdap vaccination, especially those who come in contact with infants.
- Tetanus and Diphtheria (Td) Vaccine — similar to Tdap vaccine (see above), but protects against tetanus and diphtheria only, without the pertussis component.

### **If I qualify for ASN vaccine, do I have to pay anything?**

ASN vaccines are supplied to participating medical providers at no cost. This means that ASN providers cannot charge a fee for the vaccine itself. However, providers are allowed to charge an administration fee of up to \$25 for each vaccine that is administered. Although ASN providers may charge this administration fee, they cannot deny the vaccine because of an inability to pay it.