



Combined Child Care Licensing Rules – Summary of Changes

The combined child care rules are broadly organized into two categories. Sections .01 through .21 apply to all licensed child care agencies unless otherwise noted within the rule. The rules in these sections are applicable to centers, family homes, group homes, and drop-in centers. The remaining four sections (.22 - .25) include specific requirements for each class of care identified in those sections. The “Exemptions from Licensure” section is new and provides more detail about the exemptions that exist under the law. The following rule areas were moved into stand alone sections: Procedures for Obtaining a License, Criminal Background Check and State Registry Review Procedures, Record Keeping, Incident Reporting, and Duty to Report Child Abuse and Neglect.

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Below are some of the changes to the rules organized by rule sections. These items apply to all four types of licensed care unless otherwise noted:

Scope and Purpose

- Includes an explanation of the organization of the rules and references the link on the child care website about updates to rules, policies, and procedures.

Definitions

- The section was expanded to include eighty-four (84) definitions. Approximately a quarter of the definitions were clarified, expanded, or reformatted.

Requirements for Licensure as a Child Care Agency

- Limitations regarding/prohibition against transfer of a license were added to this section.
- Requires two (2) or more agencies operated by same owner in the same facility to function as stand alone agencies, file separate applications, individually meet all licensing requirements, have separate staff, only outdoor space and equipment may be shared.
- This entire section is new for family and group homes

Procedures for Obtaining a License

- The rules clarify who must attend orientation and that orientation must be attended within the previous 6 months prior to issuance of the temporary license.
- Requires licensing fees to be paid by certified funds or money orders.

- Requires the application to include copies of the organizations filings with the TN Secretary of State.
- This entire section is new for family and group homes.

Ownership, Organization and Administration

- Requires the agency to define their organization
- Agencies with more than two employees must maintain an organizational chart showing the chain of command.
- Prior to admission children under sixty (60) months of age must have proof of the most recent well-check examination, in accordance with the EPSDT guidelines (NA for Drop-In).
- Requirements for agency policies were expanded.
- Exceptions to parental permission to child's removal from premises were added.
- For programs participating in the Child Care Certificate Program or CACFP (Food Program), a new requirement to make records available to auditing or licensing authorities
- With the exception of the insurance limits this entire chapter is new for family and group homes.

Staff

- Error: Requires designated person in charge in director's/primary caregiver's absence be eighteen (18) and have HS diploma and have TECTA orientation. (HS diploma NA to Drop-In) This will be corrected following public hearings to require either a HS diploma/equivalent OR TECTA 30 hour orientation for family and group care only.
- Language was added to clarify the restrictions for access to children by contractors and service providers.
- Allows DHS to require testing if an impaired ability to provide appropriate care is suspected.
- Requires performance evaluations be conducted and kept on file (new for family and group homes).
- Requires staff to be notified of who is in charge when the primary caregiver is absent (new for family and group homes).
- Requires staff to be aware of specified agency policies (new for family and group homes).
- Requires two hours of staff training prior to service.
- Defines requirements for substitutes and volunteers (new for family and group homes).
- Includes board of directors as responsible parties for program oversight (new for family and group homes).

Record Keeping

- Requires attendance records to be maintained for one (1) year.
- Requires official DOH form for immunizations (NA for Drop-In)
- A record of the parental notification form for reviewing the personal safety curriculum must be maintained.
- Requires a complete staff work history.
- Requires records to be organized and available (new for family and group homes).
- Staff records must be maintained for one (1) year after staff person leaves (new for family and group homes).
- Updated requirements for children's records with separate sections for preschoolers and school-agers (new for family and group homes).
- Staff record requirements were updated (new for family and group homes).

Supervision

- Procedures for signing children in/out of agency by parent were clarified (new for homes), and a provision for electronic signatures was included.
- Requires written mealtime supervision plan and staff training on plan (NA for Drop-In).
- Sight or sound supervision required on playground.
- Updated safe sleep procedures (new for family and group homes).
- Requires written physician authorization for all exceptions to safe sleep procedure.
- Most of this section is new for family and group homes.

Health and Safety

- Children must be checked upon arrival for obvious marks.
- Personal belongings (diaper bags, backpacks) must be checked before accessible to children.
- "Keep out of reach" products must be inaccessible.
- Medication must be administered in such a way that it stays inaccessible to children.
- Cigarette ashes and butts are prohibited in the child care facility.
- Diapering procedures streamlined and required for children of all ages.
- TB requirements were streamlined staff with unexplained cough for three (3) weeks see physician (previously just "cough")
- Requires staff to be observed for signs of communicable disease.
- Much of this section is new for family and group homes

Food and Food Service

- Food Service rules were expanded.
- Requires adults be present and near children who are eating
- Requires adults "routinely" sit with children while they eat (previously read "shall sit with").

- Food must be inaccessible until chopped, etc., and not served until staff can give focused attention to the children, caregivers are responsible to ensure food is appropriate for individual child.
- “Breakfast” (see definitions) be served to children who arrive before 7:00 a.m. (previously “meal”) (NA for Drop-In)
- A child with life-threatening food allergies must have a food allergy action plan; plan must be posted for immediate caregiver access (NA for Drop-In)
- Requires all formula and food from home be dated

Equipment for Children

- Resilient surfacing must be in compliance with Consumer Products Safety Commission guidelines. Currently, licensed programs have until March 1, 2012 to comply.
- Crib slats shall be no more than two and three-eighths inches (2 3/8”) apart.
- Crib mattresses/foam pads shall fit without gaps or spaces.
- Children are not required to sleep face to feet if separated by solid barrier.
- Cots, mats, cribs must be eighteen (18) inches apart (child care centers only).
- Cribs or sleeping equipment prohibited by federal safety regulations are not permitted.

Program

- Requires supervision be maintained while children are in restraining devices and infant tummy time must be supervised.
- Prohibits mechanical and chemical restraint.
- Requires caregivers to focus on positive behavior and individual strengths of the child.
- Parental consent to begin toilet training and cooperation/communication with parents maintained throughout process (NA for Drop-In)
- Adequate lighting required to allow children to be visually assessed with quick glance.
- If used, nap music must be soothing and soft.

Physical Facilities

- Several rules that were formerly in the Family and Group home appendices were moved to this section.
- Unvented fuel burning heaters are prohibited.
- Portable heaters must be approved by Commerce and Insurance.

Care of Children with Special Needs

- Requires providers of specialized services to hold appropriate license or certification (NA for Drop-in).

Transportation (NA for Drop-In)

- Prohibits transportation prior to DHS written approval.
- All transportation involved in getting child to and from agency must meet rules.
- Parent drivers for occasional field trips must meet all Tennessee laws that apply to drivers.
- The words “after each trip” were added to the section about confirming that all children are off the vehicle.
- The words “When possible” were added to the requirement about the driver/monitor watching children enter school.
- Drug screening required for any staff member who may provide transportation.
- Allows DHS to request a drug screen for drivers if suspicions merit; requires safety plan prohibiting driving and duties involving children, if drug screen is positive.
- Providers who do not normally transport are limited to four occasional field trips per year.
- Prohibits volunteer drivers for occasional field trips from driving if impaired.
- Emergency exiting drills required quarterly (formerly “regular basis”).
- Prohibits use of vehicles that have not passed DOS inspection until repairs made as determined by DHS.
- Custom/conversion vans built on twelve (12) and fifteen (15) passenger van chassis/frame are prohibited.

Sick Child Care (NA for Drop-in)

- Requires separate room for children with Hepatitis B (previously read Hepatitis A)

Specific Requirements for Child Care Centers

- 5 yrs – 12 yrs age grouping removed from Multi-Age Grouping Chart because the “K and above” grouping in the single-age grouping chart already covers this age range.
- Requires 50% of training hours to be in “live” presentation, allowing for 50% to be competency-based online, CD ROM, video, self-study, in-house, etc.
- In-house training defined as provided by agency staff, management, larger agency or corporation, etc.
- Allows for 100% of training hours to come from online college courses.
- Requires training for credit to be recognized by licensing.
- Requires training hours to be in addition to other required training such as CAAFP, personal safety, etc.
- Allows training hours for CPR and 1st Aid required for recertification.
- Requires training on food service plan for all staff involved in food service/prep/supervision.
- Requires one (1) staff person in each infant/toddler room to have 1st Aid and infant/toddler CPR

Specific Requirements for Group Child Care Homes

- Appendices were deleted, and relevant items were moved to the main body of the rules.
- Requires Adult:Child ratios to be maintained indoors and outdoors on playground
- Allows DHS to terminate 10% variance and requires fire approval if necessary
- Allows training hours earned in TECTA to count for two (2) years
- Requires home to have a qualified primary caregiver on site at all times
- Allows for sixteen (16) and seventeen (17) year olds to be counted in the ratio provided they are never left alone; directly supervised by adult caregiver.
- Allows for sixteen (16) and seventeen (17) year olds to be counted in the ratio provided they are never left alone; directly supervised by adult caregiver. (also true for family child care homes)
- Requires training hours be in addition to required training such as CAAFP, personal safety, etc. (previously primary caregiver)
- Allows training hours for CPR and 1st Aid recertification
- Eliminates kitchens, hallways, bathrooms, space occupied by large equipment, etc. from usable square footage.
- Plumbing requirements moved from Appendix E to rules.

Specific Requirements for Family Child Care Homes

- Appendices were deleted, and relevant items were moved to the main body of the rules.
- The rules clarify that the 10% variance is not applicable to family homes.
- Requires sleeping children to be supervised and visible with a quick glance; allows for helper devices

Specific Requirements for Drop-In Child Care Centers

- Verification of food allergies added to the parent consent for medical treatment requirement.
- Staff must be aware of child's allergies and know how to deal with any allergic reaction.
- Includes Personal Safety requirements specific to Drop-in Care
- Caregivers complete 2 hours of training prior to having contact with children.
- Staff review emergency preparedness procedures quarterly and walk through evacuation procedures every six months.

Below is a summary of some of the additional changes within the draft of the combined child care rules (the items in *italics* indicate requirements that come directly from the licensing law):

1. Adds a provision that prohibits licensed and unregulated care on the same property.
2. *Language from the law was added to reflect that the Department will offer training to directors and primary caregivers that include components on interviewing and evaluating caregivers for service in the agency.*
3. An application for licensure will not be considered complete unless it is accompanied by the annual application fee.
4. All required supporting documentation and application fees must be submitted within thirty (30) days of receiving notification from the Department of an incomplete application.
5. Required references for staff must be favorable and verified.
6. Physical facilities must receive fire and environmental approval within the previous sixty (60) days, prior to submitting an application for licensure.
7. *Before and after school services must be noted on the license, along with other information about individuals and boards responsible for oversight.*
8. If applicable programs are required to have a plan for sharing outdoor equipment and space with children not enrolled in the agency.
9. *Agencies required to inform parents about the benefits of immunizing children against influenza each August or September.*
10. *A requirement was added to clarify that agencies must disseminate materials and information to parents/guardians as required by the Department or by law.*
11. *Agencies required to develop and maintain a drug testing policy for staff.*

12. The requirement to notify parents/guardians and funding sources of licensing violations was reworded to clarify the circumstances surrounding when such notification can occur.
13. A requirement was added to address how an agency makes corrections in their records regarding names and dates of children's attendance or other records of children or staff that the agency determines to be erroneous.
14. A requirement was added for reporting to DHS serious illness or injury that requires medical treatment beyond on-site first aid, issues of a sensitive nature, and any adult fatality at the facility.
15. *The rules acknowledge the change in the law that now requires the Department to verify the sex offender registry results, the results of a review of the protective service records of the Department of Children's and Human Services as part of the background check process.*
16. A provision for allowing for electronic sign-in and sign-out was added to the rules and language was added to indicate when it is appropriate for staff to sign children in and out.
17. A provision was added to require an agency to immediately notify the department if they become aware of someone who has access to children in a child care setting and has a criminal history that would exclude them from such access.
18. A provision was added to clarify that home schooling shall not take place during child care hours unless a qualified primary caregiver, in addition to the home schooling parent/guardian is available to supervise the child care agency and that home schooling during child care hours must be conducted in a separate space.
19. The rules now allow mats to be identified with the child's name or a corresponding code. Previously the mat had to be identified with the child's name.
20. Procedures governing the use of "physical restraint" were added to the rules.
21. The definition of "school-age" was reworded to clarify the conditions necessary for classifying a four year old as a school-age child.
22. A definition for "time out" was added and it clarifies that time out is never appropriate for infant and toddlers.
23. A provision was added to allow foster children to reside in a child care facility on a case by case basis, if certain conditions are met.
24. Practicum students must have background checks if they serve as caregivers for more than 36 hours in a calendar year.
25. An extensive but not all inclusive list of criminal offenses for which exclusion from access to child care is required was added to the rules.
26. The rules clarify that a person indicated for neglect in the records of the Department of Children's Services must be placed upon a safety plan.
28. A provision was added to clarify that any transportation provided to children before they have been released to their parents is subject to all the transportation rules.
29. The requirement for child care drivers to obtain certification from the Department of Safety that they have passed additional written or skills testing is no longer required.
30. The definition for "occasional field trip" was removed and a provision was added to the transportation section to allow up to four occasional field trips per year where the agency does not have to meet all of the transportation requirements on those trips.
31. *An itemized list of programs exempt from licensing was added to the rules.*

Family & Group Homes

1. Family and group homes are now required to have parents sign-in and sign-out children.

2. The requirement for having a plan to call a second adult in an emergency situation is new for family and group homes.
3. The medical payment insurance coverage required for family and group homes is no longer required to be primary coverage.
4. The format of the ratio charts for family and group homes have been revised according to feedback from providers.
5. Updated safe sleep procedures have been added for family and group and drop-in facilities.
6. The training hours for caregivers have been increased in family and group homes. Caregivers are now required to have 2 hours of training prior to having any contact with children and 6 hours annually. Previously caregivers in family and group homes were required to have 2 hours of annual training. (TECTA orientation counts for two years of training)

Group Homes

1. *The provision for exceeding ratio requirements up to ten percent, no more than three days per week was added to the group home requirements (this provision had previously only been found in the law).*
2. The training hours for primary caregivers have been increased in group homes to 10 hours annually. Previously, primary caregivers were required to have 8 hours of annual training.

Family Homes

1. After the effective date of these rules new primary caregivers in a family child care home will be required to have a high school diploma or equivalent (a provision for grandfathering existing providers will be enforced by policy).
2. The rules acknowledge that fire inspections for family homes are now conducted by the state fire marshal's office or their local designee.
3. The training hours for primary caregivers have been increased in family homes to 8 hours annually. Previously, primary caregivers were required to have 4 hours of annual training.