

Child Care Services Daily Update – July 24, 2020

Important Update

The Tennessee Department of Human Services is committed to supporting child care agencies in providing programs that are safe, healthy and educationally rich. The impact of the COVID-19 pandemic has created many challenges over the past several months and many opportunities to approach the delivery of services in different ways. Thank you for remaining flexible and attentive to health and safety protections, while also remaining responsive to family needs.

We are very sensitive to the ever-evolving impact of the COVID-19 pandemic on communities, including delivery of academic learning for school-age children. Many child care agencies have been caring for school-age children to support families when schools closed this past Spring. This practice was acceptable as school-age care is appropriate in child care settings when children are not engaged in academic learning during the regular school day.

We are aware that some school systems will be offering families the option of virtual instruction for their student. For many families who are working outside of the home and choose this option, this may create a need for alternative care settings while engaging with the virtual education option. As we approach the school year, however, licensed child care providers should be aware of the options and restrictions, of offering virtual or remote learning services for school-age children at their agency.

1. Under my DHS child care license, can I care for school-aged children during times of remote learning?

No. As you are aware, DHS uses funding from the Child Care Development Fund (CCDF) to support all licensed child care providers, through subsidies, grants, and other resources. That funding stream explicitly prohibits provision of instructional services that supplant or duplicate academic educational programs of public and private schools. It is very important that licensed programs understand that caring for school-aged children during times of remote or virtual learning cannot be supported by CCDF funds and would not be appropriate under their child care license. Licensed agencies can provide before and after care; however, not during the hours of academic learning.

2. With the understanding that, under my current license, I cannot care for school-aged children during times of remote learning and that care cannot be supported with CCDF dollars or resources, can I still offer these educational support services?

Yes, but you need to be aware of the requirements. As noted above, DHS resources and money received through child care subsidy or DHS child care grants cannot support those operations. If you are prepared to support remote learning for school-aged children outside of your DHS licensed child care program, the law provides an exemption from other licensure requirements so that your program will not be considered an illegal program. Tenn. Code Ann. § 71-3-503 exempts educational programs from DHS child care licensure requirements if you meet certain criteria set out below:

(A) That the sole or primary purpose of the program is:

- (i) To prepare children for advancement to the next educational level through a prescribed course of study or curriculum that is not typically available in a department-regulated child care setting;
- (ii) To provide specialized tutoring services to assist children with the passage of mandatory educational proficiency examinations; or
- (iii) To provide education-only services to special needs children; and

(B) That the program time scheduled to be dedicated to the educational activity is reasonably age appropriate for the type of activity and the ages served

3. May I operate this exempted educational program on the same property as my licensed child care agency?

Normally, a licensed child care agency may not operate on the same property as an unlicensed program. However, if you fit the exemption mentioned above, you may operate this program as long as you get advance approval from DHS. See Tenn. Rules & Regs. Ch. 1240-04-01.03:

(3) Multiple Child Care Agencies Operated by a Licensee at the Same Location.

- (b) A child care agency shall not operate on the same property as an unlicensed, unregulated, or exempt child care agency unless approved in advance by the Department.

Licensed agencies that have questions about creating an educational program should contact their licensing program evaluator for technical assistance.

We hope this guidance will assist you in advising families who are asking about care options when the school year begins. We greatly appreciate all you do in serving the families of Tennessee, and we will continue to provide you with information as we navigate through this time of uncertainty.