

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

**CHAPTER 0520-~~1201-0126~~  
STANDARDS FOR SCHOOL-ADMINISTERED CHILD CARE PROGRAMS**

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**0520-~~1201-0126~~-.01 INTRODUCTION.**

Pursuant to T.C.A. § 49-1-302(j), these rules are applicable to the following programs and are subject to monitoring by the Department of Education:

- (1) Public school-administered early childhood education programs;
- (2) Programs operated by private schools as defined by § 49-6-3001(c)(3);
- (3) Child Care provided by church affiliated schools as defined by § 49-50-801(a);
- (4) State approved Montessori school Pprograms;
- (5) Before or after school Child Care Pprograms operated pursuant to §§ 49-2-203(b)(11) and 49-6-707;
- ~~(6) Programs providing center based early intervention services through Tennessee Early Intervention Services; and~~
- ~~(6) Child Care provided in federally regulated Pprograms including Title I Ppreschools, 21st Century Community Learning Centers and all school-administered Head Start and Even Start Pprograms; and~~
- (7) Child Ceare provided in facilities licensed by the department of children's services pursuant to title 37, chapter 5, part 5, to children who are transported across state lines to enter the facility's care and whose transport across state lines is not subject to the Interstate Compact for Juveniles, compiled in title 37, chapter 4, part 1 or the Interstate Compact on the Placement of Children, compiled in title 37, chapter 4, part 2.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 49-1-201(c)(224); 49-1-302(j); 49-1-1101 through 49-1-1109; 49-2-203(b)(11); 49-5-413; and 49-6-707. **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

**0520-~~1201-0126~~-.02 DEFINITIONS.**

For purposes of this Chapter, the following definitions are applicable:

- (1) Administrative Hearing. A hearing that is held under the Uniform Administrative Procedures Act pursuant to T.C.A. §§ 4-5-101, *et seq.*, rather than a court of law. The purpose of the hearing is to allow an agency the opportunity to challenge enforcement actions taken by the Tennessee Department of Education (Department).

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- (2) Adolescence. The period of physical and psychological development from the onset of puberty to maturity.
- (3) Annual Certificate of Approval. Certificate issued by the Department to Pprograms that have satisfactorily completed the Temporary Certificate of Approval time period and is reissued on an annual basis as long as the Pprogram meets the standards of the Department ~~of Education~~ and the rules of this Chapter.
- (4) Approved Capacity. The designated maximum number of children permitted in a facility, as determined by the Department, based upon usable space, age of children, adult:child ratios, and Group size. Capacity must be designated on the Annual Certificate of Approval.
- ~~(4)(5) Auxiliary staff. Program staff, excluding t~~Teachers, but -includinges cafeteria staff, V~~olunteers, teacher assistants, guidance counselors.~~
- ~~(5)(6) Child. A person under eighteen (18) years of age.~~
- ~~(6)(7) Child's Age. The age of a~~ Cchild on August 15 of any given year.
- ~~(7)(8) Child Care. The provision of supervision, protection, and, at a minimum, the basic needs of a child~~ (-of children) for more than three (3) hours a day, but less than twenty-four (24) hours a day.
- ~~(8)(9) Child Care Advisory Council. A~~An eleven (11)~~ten (10)~~ member council established by T.C.A. § 49-1-302 to advise the State Board of Education in the establishment of Cchild Care standards and regulations and to act as a hearing tribunal for appeals from actions of the ~~Tennessee State Department of Education~~ regarding the certificate of approval issued to Cchild Care programs.
- ~~(9) Child Care Program. The programs listed in 0520-08-01-.01(1) (7) of this Chapter. Any public school administered early childhood education programs; programs operated by private schools as defined by § 49-6-3001(c)(3); child care provided by church affiliated schools as defined by § 49-50-801; state approved Montessori school programs; before or after school child care programs operated pursuant to §§ 49-2-203(b)(11) and 49-6-707; programs providing center based early intervention services through Tennessee Early Intervention Services; child care provided in federally regulated programs including Title I preschools, 21st Century Community Learning Centers and all school administered head start and even start programs.~~
- (10) Civil Penalty. A penalty placed upon a Pprogram for each violation of a statute, rule, or order pertaining to such person or entity in an amount ranging from fifty dollars (\$50.00) to one thousand dollars (\$1,000.00). Each day of continued violation constitutes a separate violation as indicated by T.C.A. § 49-1-1107(c)(1).
- ~~(11) Commissioner. The executive head of the Department, appointed by the Governor~~Commissioner of Education.
- ~~(12)(11) Conventional Care. Child care services provided between the hours of 6:00 a.m. and 6:00 p.m., Monday through Friday.~~
- ~~(13)(12) Department, (TDOE).~~The Tennessee Department of Education and its representatives.
- ~~(14)(13) Developmentally Appropriate Practices. Practices which use the knowledge of child development to identify the range of appropriate behaviors, activities, and materials for specific age groups. This knowledge is used in conjunction with an understanding about children's growth patterns, strengths, interests, and experiences to design the most appropriate learning environment. A D~~evelopmentally Appropriate curriculum provides for all areas of a child's

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development, physical, emotional, social, and cognitive, through an integrated approach. For children from birth to five (5) years of age, the Tennessee Early Learning Development Standards ~~are~~is adopted by the State Board of Education for guidance in appropriate learning expectations.

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- (14) Director. The person with overall responsibility for the Sschool-Aadministered Cehild Ccare Pprogram.
- (15) Early Learning Division. The Ddepartment's division that oversees all school-administered child care Pprograms, te includinge, but not limited to, Voluntary Pre-kKkindergarten, Head Start, Early Childhood Special Education, related grants, and other public and non-public school early childhood and Sschool-Aage Cehild eCare Pprograms.
- (16) Group. A specific number of children comprising an age range, assigned to specific staff in an assigned space that is divided from the space of other groups by a recognizable barrier.
- ~~(17) Home School. The provision of full-time educational services, as recognized by the Department of Education, to a child by the child's parent in the child's primary residence. Any early childhood program attached to a home school program falls under the jurisdiction of the Department of Human Services (DHS).~~
- (17) Infant. A Cehild who is six (6) weeks through twelve (12) months of age.
- (18) Intentional disregard. The knowing forbearance of a Child Care Program, owner, Staff, Auxiliary staff, Director or other employees to comply with the duties or standards imposed by these rules, federal, state and local laws, or the standards of care generally required of Programs.
- ~~(18)~~(19) Kindergarten. A school or class that prepares children for first grade and is part of a public or private school system. Kindergarten Pprograms in the public school system shallmust comply with the Minimum Kindergarten Program Law pursuant to T.C.A. § 49-6-201. To enter kindergarten, a Cehild shall-must be five (5) years old by August 15 each school year.
- Law. Statutory or regulatory provisions affecting the operation of an early childhood program including, but not limited to, the law as contained in T.C.A. § 49-1-302(l) and T.C.A. §§ 49-1-1101 through 49-1-1109, and Chapter 0520-12-01 of the State Board Rules.
- ~~(19)~~(20) Mixed-Age Grouping. Mixed age group can also be referred to as "heterogeneous or multi-age". A group of children with varying ages whothat are combined to maximize the educational benefits in a non-traditional classroomProgram. All Mmixed Aage Ggroup classrooms Programs mustshall not exceed the maximum group size and must maintain adult:child ratios.
- (21) Negligence. The failure of a Child Care Program, owner, Staff, Auxiliary staff, Director or other employees to comply with the duties or standards imposed by these rules, federal, state and local laws, or the standards of care generally required of Programs.
- ~~(20)~~(22) Non-school, Community-based Organization Program. An organization operating an infant/Toddler Pprogram, Ppreschool Pprogram, or school- age before and after school program operated through a contract with the Department of Education and under the certificating authority of approved by the Department of Education.
- ~~(21)~~ Off-site Activity. Any activity which-that occurs away from the general premises of the school-administered child care pProgram's facility.
- (23) \_\_\_\_\_
- ~~(22)~~ Parent. A biological, legal, or adoptive parent, guardian, or legal or physical custodian who has primary responsibility for a Cehild.
- (24) \_\_\_\_\_
- \_\_\_\_\_ Plan of corrective action.

~~(25)~~ (25) —A plan which provides a schedule for the completion of work to bring a program into compliance with these rules, federal, state and local laws, or the standards of care required of Programs. The plan must include specific strategies to be implemented in program design during the completion of the work. The plan must ensure that children will not be placed in danger due to the program area which is not in compliance and it must ensure that children will not be placed in danger by the work being done to bring the area into compliance.

~~(23)~~(26) Pre-kindergarten. A class or program prior to Kkindergarten for children who ~~that~~ are four (4) years old by August 15.

~~(24)~~ —Preschool. A Pprogram providing Cchild Ccare services to children who are six (6) weeks through five (5) years of age and not in kkindergarten, including children who are ~~more~~ specifically defined under this Chapter as an “Infant” or a “Toddler.”

(27)

~~(25)~~ Program. Any public or private school-administered preschool, pre-kindergarten or school-age care program, including community-based programs funded by Voluntary Pre-K, Pre-K, Lottery Education Afterschool Programs (LEAPs), and 21st Century Community Learning Center (21st CCLC) programs that serve a minimum of one (1) child, is subject to the jurisdiction of the Office of School-based Support Services. Exception: fee-based and 21st CCLC funded before and after care programs that operate less than three (3) hours per day or less than fifteen (15) hours per week.

(28) Restricted Temporary Certificate. A certificate that limits a Pprogram's authority in one (1) or more areas of operation issued by the Department to a new Program authorizing the program to begin operations while the Pprogram attempts to attain full compliance with all applicable regulations. if the Department determines that the conditions of the facility, the methods of care, or other circumstances warrant it;

~~(26)~~ Related. Any children of the following relationships by marriage, blood, or adoption; children, step-children, grandchildren, siblings, step-siblings, nieces, and nephews of the primary caregiver. The term “related” includes any “grand” or “great” relationship (e.g. great niece, great grandchild, etc.) within the relationships indicated.

~~(27)~~ School-age Child. A Cchild who is five (5) years of age and enrolled in Kkindergarten (K) through seventeen (17) years of age. A five (5)-year-old may be classified as a school-age Cchild in the summer immediately preceding the Cchild's fall entry into Kkindergarten.

(29)

~~(28)~~(30) School-administered Child Care Program (Program). A Pprogram listed in 0520-08-01-.01(1)-(7) of this Chapter that is run by a public or non-public/private school. ~~serv~~ing five (5) or more kindergarten (K) through grade twelve (12) ~~students and is run by a public or private school.~~

~~(29)~~(31) Staff. Full and part-time teachers, employees of the program, contractors, or unpaid volunteers of the Pprogram.

~~(30)~~(32) Teacher. The person at the Program or, persons, entity or entities directly responsible for providing for the supervision, protection, and basic needs of athe Cchild.

~~(31)~~(33) Temporary Certificate of Approval. A certificate issued by the Department to a new school-administered child care pProgram allowing and authorizing the program to begin child care operations while the Pprogram attempts to attain full compliance with all applicable regulations.

(34) Toddler. A Cchild who is eleven (11) months through twenty-three (23) months of age.

~~(32)~~(35) Volunteer. A volunteer is a person who provides services for a child care pProgram without payment and who is used to supplement the regular Sstaff or substitute staff.

~~(33) Umbrella Program. An umbrella program that oversees the homeschooling of children to fulfill government educational requirements. TDOE does not recognize umbrella early childhood programs as school-administered.~~

~~(34) Youth. A person who is ten (10) years of age through seventeen (17) years of age.~~

**Authority:** T.C.A. §§ 4-5-201, et seq.; 49-1-201(c)(224); 49-1-302(ii); 49-1-1102; 49-2-203(b)(11); ~~49-2-203(b)(11)(B); 49-6-101; and 49-6-707.~~ **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Emergency rule filed August 30, 2010; effective through February 26, 2011. Emergency rule expired on February 27, 2011, and the rule reverted to its previous status. Amendment filed December 21, 2010; effective March 21, 2011. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

### 0520-~~4201-0426-~~03 PROGRAM APPROVAL.

- (1) All persons or entities operating a ~~s~~ child care ~~p~~Program ~~shall~~must be ~~approve~~certified by the Department of ~~Education (Department)~~.
- (2) A ~~s~~School-administered child care ~~p~~Program seeking approval shall submit a ~~pre~~pre-application to the Department Early Learning Division that contains the following information:
  - ~~(a)~~ In accordance with 49-1-1103-(d)(1), Ssatisfactory evidence that the facility that is proposed for the care of children has received fire safety and environmental safety approval, that the ~~applicant and the personnel~~Director and Staff who will care for the children are capable to care for the children and that the applicant has the ability and intent to comply with the certificate of approval law and regulations;
  - ~~(b)~~
  - ~~(c)~~(a) Three (3) satisfactory references for the program director;
  - ~~(d)~~(b) Verification that the program dDirector's qualifications meet the requirements of Chapter 0520-~~08~~12-01-.07;
  - ~~(c)~~ Verification that all ~~program S~~staff have successfully completed a criminal history background check as required by T.C.A. § 49-5-413; and
  - ~~(d)~~ Verification of enrollment of ~~at least five (5) s~~at least five (5) School-aged children enrolled in ~~K~~Kindergarten through grade twelve (12) in accordance with all applicable laws and regulations. in accordance with State Board Rules 0520-07-02, Non-Public School Approval Process.
- (3) Upon receipt and ~~review~~approval of an application the Department shall conduct an on-site ~~visit~~inspection to ensure the site is suitable for ~~C~~Child ~~C~~Care activities and does not endanger the welfare or safety of children. Upon satisfaction of the on-site ~~visit~~inspection by the Department, the ~~p~~Program shall be provided a ~~T~~Temporary ~~C~~Certificate of ~~A~~Approval. During the Temporary Certificate of Approval period:
  - (a) The Department shall perform a minimum of two (2) visits to the Program, at least one (1) of which shall be unannounced.;
  - (b) The Department shall perform at least one (1) observation of the Teachers' interaction with children; and
  - (c) The Program ~~shall~~must provide verification, including any required supporting documentation, as directed by the Department, of compliance with all applicable regulations. The failure to obtain and maintain compliance with all applicable regulations during the period of temporary approval may result in the revocation of the Temporary Certificate of approval.

~~(3)~~(4) Within ninety (90) days of the issuance of the temporary certificate, the Department shall determine if the applicant has complied with all regulations and requirements necessary to receive an Aannual eertificate of Aapproval. ~~During the temporary certificate of approval period:~~

~~The Department shall perform a minimum of two (2) visits to the program at least one of which shall be unannounced;~~

~~The Department shall perform at least one (1) observation of the teachers' interaction with children; and~~

~~The program must provide verification, including any required supporting documentation as directed by the Department, of compliance with all applicable regulations. The failure to obtain and maintain compliance with all applicable regulations during the period of temporary approval may result in the revocation of the temporary certificate of approval.~~

(4)(5) On or before the expiration of the Temporary Certificate of Aapproval, the Department shall:

- (a) Issue an aAnnual eertificate of approval to a Program that has satisfied the requirements for the ninety (90) day temporary approval;
- (b) Issue a Restricted Temporary eertificate that limits a Program's authority in one (1) or more areas of operation if the Department determines that the conditions of the facility, the methods of care, or other circumstances warrant it; or
- (c) Deny the Aannual Certificate of Aapproval if the Department determines that any of the requirements set forth in this RuleChapter have not been, or cannot be, satisfactorily met.

~~(5)~~(6) A certificate of approval is not transferable from one Program location to another, ~~or from one agency to another.~~ A certificate of approval issued by the Department is not transferable to a program licensed by the Tennessee Department of Human Services.

~~(6)~~(7) The Department may revoke ~~at the~~ certificate of approval ~~may be revoked~~ at any time upon ninety (90) days' notice to the program, ~~to the agency~~. If the health, safety, or welfare of the children in care imperatively requires it, the certificate of approval must~~shall~~ be revoked immediately.

~~(7)~~(8) To renew an aAnnual Certificate of aApproval, approved pPrograms shall submit an annual report to the Department ~~prior to~~ by October 1 in accordance with T.-C.-A. § 49-1-1108. Any entity not completing the annual report by October 1, must~~shall~~ be notified, and if a report is not submitted by the date listed in the notice, the Program's certificate of approval must~~shall~~ be suspended.

~~(a) The report shall include:~~

- ~~1. Current enrollment figures;~~
- ~~2. Identification information;~~
- ~~3. A description of the services to be offered to children and parents and reasons these services are needed at the proposed location;~~
- ~~4. Ages of children to be served;~~
- ~~5. Hours of operation;~~
- ~~6. A description of meal provision or preparation;~~
- ~~7. Admission requirements and enrollment procedures;~~

~~8. Provision for emergency medical care;~~

~~9. Transportation Plan; and~~

~~10. Demonstration of compliance with all laws and regulations governing the program.~~

~~(b)(a) If, after being approved, a Program school wishes to change the scope or type of service offered to children and families, the Director shall submit do so through a written request notice for approval to the Department. may request to do so through a written notice to the Department. an amended report shall be filed with the Department for approval prior to implementation.~~

~~(8)(9) A P program that submits a satisfactory annual report and demonstrates a reasonable probability that the P program can maintain compliance with all laws and regulations during the annual certification period, must shall be issued a new A annual C certificate of A approval by the D D department.~~

~~(9)(10) Throughout the temporary certification period and during the annual re-evaluation period, immediate access to all areas of the school or P program shall be granted to all Department representatives and other inspection authorities (i.e., fire safety, sanitation, health, Department of Children's Service, and other state and local government authorities etc.) during operating hours.~~

~~(10)(11) Any P program found in operation without approval oversight from the Department of Education will be reported to local authorities, and the P program, or an individual operating the Program may be found to commit a Class A misdemeanor as indicated by T.C.A. § 49-1-1105(a).~~

~~(12) If the Department determines, as a result of its inspections or investigations or those of other local, state, or federal agencies or officials, or through any other means, that a plan is necessary to ensure the safety of the children in the care of the P program, the Department may require the P program to implement a safety plan. The safety plan may require, but is not limited to, the exclusion or restriction of any individuals from access to children, the closure or restriction of any part of the P program, the modification or elimination of services, the re-inspection of the P program, or the training of management, Staff, or Volunteers.~~

~~(11)(13) Throughout the annual certification period, the Department shall perform a minimum of two (2) visits to the School-administered child care P Program, one (1) of which must shall be unannounced.~~

**Authority:** T.C.A. §§ 4-5-201, et seq.; 49-1-201(c)(224); 49-1-302, et seq.; 49-1-302(i); 49-1-1101 through 49-1-1109; 49-2-203(b)(11); 49-5-413; and 49-6-707. **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

#### ~~0520-12-01-.04 REPEALED.~~

~~**Authority:** T.C.A. §§ 4-5-201, et seq.; 49-1-201(c)(24); 49-1-302(i); 49-1-1101 through 49-1-1109; 49-2-203(b)(11); and 49-5-413. **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Repeal filed November 2, 2017; effective February 1, 2018.~~

#### ~~0520-4201-0426-.05~~ PROGRAM ORGANIZATION AND ADMINISTRATION.

- (1) Each Pprogram shall have an ~~adequate~~ budget for the financial support of the Pprogram. Adequate financing ~~of the center's operation~~ must shall be maintained throughout the year.
- (a) Proposed budgets and other relevant financial records must shall be available to the Department ~~of Education~~ upon request.
  - (b) If any Pprogram is the subject of any bankruptcy or receivership petition or order, or any other action that may affect the financial status or operational status of the Pprogram, including but not limited to foreclosure notices, ~~or~~ liens, ~~etc.~~ or, if any Pprogram is the subject of any local, state or federal regulatory action, such as but not limited to, the fire safety, health, environmental zoning or local, state or federal grant compliance status or tax enforcement proceedings, the Pprogram's management shall immediately notify the Department and shall provide current documentation of the status of the Pprogram, including copies of necessary administrative and/or court legal documents applicable to that status.
- (2) General liability, automobile liability, and medical payment insurance coverage must shall be maintained on the operations of the Pprogram's facilities and on the vehicles owned, operated, or leased by the Pprogram and as follows:
- (a) General liability coverage on the operations of the Pprogram's facilities shall be maintained in a minimum amount of five hundred thousand dollars (\$500,000) per occurrence and five hundred thousand dollars (\$500,000) general aggregate coverage.
  - (b) Medical payment coverage must shall be maintained in the minimum amount of five thousand dollars (\$5,000) for injuries to children resulting from the operation of the Pprogram.
  - (c) Automobile coverage for Pprograms that transport children:
    - 1. Automobile liability coverage must shall be maintained in a minimum amount of five hundred thousand dollars (\$500,000) combined single limit of liability.
    - 2. Medical payment coverage must shall be maintained in the minimum amount of five thousand dollars (\$5,000) for injuries to children being transported in vehicles owned, operated, or leased by the Pprogram.
  - (d) The requirements of this paragraph must shall not apply to a Pprogram that is under the direct management of a self-insured administrative department of the state, a county or a municipality or any combination of those three (3) or that has, or whose parent entity has a self-insurance Pprogram that provides, as determined by the Department, the coverage and the liability limits required by these rules.
  - (e) Documentation that the necessary insurance is in effect, or that the administrative department or other entity is self-insured, must shall be maintained in the records of the Pprogram and shall be available for review by the Department.
- (3) Enrollment.
- (a) A Pprogram shall not enroll a ~~C~~child into care until the ~~P~~parent ~~or guardian~~ has supplied the Pprogram with a completed application, Tennessee Department of Health Official immunization record (for children over two (2) months of age), and a health history.
  - (b) Exceptions to this immunization requirement may be made only if:

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1. The Cchild's physician or the local health department provides an official signed and dated statement, giving a medical reason why the Cchild should not be given a specified immunization;
  2. The Cchild's pParent provides a signed written statement that such immunizations conflict with his/her religious tenets and practices; or
  3. Care for children of homeless families and/or children in state custody is needed before documentation of immunizations can be confirmed. Programs s must have a written plan for obtaining records for children who are homeless and/or in state custody.
- (c) Programs may not deny enrollment to students based on citizenship status. (Plyler v. Doe, 457 U.S. 202, 1982).
- (d) Programs shall not enroll children ~~Enrollment of children~~ under six (6) weeks of age ~~is prohibited~~.
- (e) The Pprogram shall maintain documentation that the pParent was offered an on-site visit of the Pprogram to review the facility and the opportunity to review the Pprogram's policies and procedures prior to the Cchild being enrolled into the Pprogram. ~~Exception: On-site visit is not required for children of homeless families.~~
- (f) Enrollment of children shall be allowed throughout the year, ~~if as long as~~ the requirements set forth in these Rules are met.
- (4) Each Pprogram shall implement a plan for regular and ongoing communication with pParents in accordance with guidance issued by the Department. This plan must shall include but not be limited to communication concerning curriculum, changes in personnel ~~S~~staff, or planned changes affecting children's the child's routine care.
- (a) Parents ~~or guardians~~ shall be provided a parent handbook outlining the Pprogram's policies, procedures, and the requirements of this Chapter Rule upon admission of the Cchild. The Pprogram's parent handbook must shall include, at a minimum:
- ~~1.~~ 1. Criteria for the suspension and disenrollment of children (expulsion policy);
  - ~~2.~~ 2.
  - ~~3.~~ 3. Specific criteria concerning the release of children to anyone whose behavior may place the children at immediate risk;
  - ~~4.~~ 4.
  - ~~5.~~ 5. Behavior management techniques;
  - ~~6.~~ 6. Rates and late fee policy;
  - ~~7.~~ 7. Hours of operation;
  - ~~8.~~ 8. Emergency plan and inclement weather policy;
  - ~~9.~~ 9. Smoke free environment policy;
  8. Daily schedule;
  9. Transportation policy;

~~10.~~ Parental access policy;

~~8-11.~~ Curriculum and topics of study; and

~~9-12.~~ Meal service policy.

~~(b)~~ The ~~P~~program shall require the ~~p~~Parent to sign for receipt of the policies and summary of the requirements of this ~~Rule~~Chapter, and the signed receipt ~~must~~ shall be maintained by the ~~P~~program in the ~~C~~child's file.

~~(b)~~

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- (c) Parents shall be permitted to see the professional credential(s) of ~~program~~ Staff upon request.
- (d) An abuse prevention awareness Program or abuse prevention awareness information for Parents shall be offered at least once a year. The Program shall include a child abuse prevention component, approved by the Department of ~~Education~~, with information on the detection, reporting, and prevention of child abuse in Child Care programscenters and in the home.
- (e) After issuing two (2) formal notices of violations in compliance with rules, a Notice of Probation, or after issuing any type of legal enforcement order, the Department may, in its discretion, require the Program to notify Parents and funding sources of the circumstances.
- (f) The Department may, at its discretion, notify ~~p~~Parents and funding sources of any decision affecting the Program rendered by the ~~State Board of Education-Child-Care Advisory Council~~ serving in the role of ~~Hearing Board~~ for hearing tribunal appeals or by any court.
- (5) Release of Children.
- (a) Parents shall give written permission in advance of the Child's removal from the premises, including prior notification and consent for each Off-site Activity, except in cases of emergencies or investigative procedures conducted pursuant to the Child protective services laws or other applicable laws.
- (b) Children shall be signed in and out of the Program by the ~~legal guardian- Parent~~ or persons authorized on the list to pick up the Child. Students transported to the Program pursuant to 0520-~~0842-~~01-.13 may be signed in and out by the appropriate Staff ~~person~~. Program Staff shall verify parental authorization and the identity of any person to whom a Child is released.
- (c) Children shall only be released to a designated person in accordance with the Child release plan. The Program shall verify the identity of the authorized person by requiring presentation of a government-issued photo identification in accordance with local procedure/policy. The person to whom the Child is released ~~shall~~ must sign the Child out of the Program.
- (d) Children ~~should~~ shall not be released to anyone whose behavior, as deemed by a reasonable person, may place him/her in imminent risk. Staff shall immediately call 911, the local law enforcement agency, or other emergency services number prior to the release of children. If the person displaying risky behavior is not the Pparent, the Pprogram shall not release the Cchild, and the Pparent shall be called immediately.
- (e) During operating hours, Parents shall be permitted access to their children. Programs shall develop a policy and implementation plan regarding non-custodial Pparent access and/or denial of access to children. The policy and implementation plan must ~~shall~~ be provided to all Parents. ~~(The policy must may be included in the parent handbook.)~~
- (f) A Pparent shall be notified before the Child leaves the premises except in emergency circumstances. An authorized investigator with the Department of Children's Services or local law enforcement may take a Child off the premises of the Program if he/she has obtained custody of the Child as follows:
1. Voluntary placement agreement with the Pparent;
  2. Court order;

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3. Emergency assumption of custody under T.C.A. § 37-1-113 without parental permission;
  4. The Cchild's Pparent or legal guardian is present and approves; or
  5. In conjunction with investigative procedures under ~~the~~ child abuse laws.
- (6) Incidents, accidents, and injuries ~~must~~ shall be reported to the pParent as soon as possible, but no later than the Cchild's release to the pParent or authorized representative.
- (a) Incidents, accidents, and injuries to children ~~must~~ shall be documented immediately as follows:
1. Date and time of occurrence;
  2. Description of circumstances; and
  3. Action(s) taken by the Pprogram.  
~~3. \_\_\_\_\_.~~
- (b) The Director or designated Staff shall file dDocumentation of incidents, accidents, and injuries to children ~~shall be filed~~ in the Cchild's record no later than one (1) business day immediately following the occurrence.
- (c) The Director shall notify the Department ~~shall be notified~~ of any Cchild fatality ~~on or off campus at the program~~ no later than one (1) calendar day immediately following the death.
- (7) All Pprograms shall maintain student records in a manner that complies with Department guidance, the Family Educational Rights and Privacy Act (FERPA) 20 U.S.C. § 1232g, and applicable state law. Program Staff shall maintain the confidentiality of confidential student information in accordance with state and federal law FERPA, as well as any other records that are confidential under the Tennessee Public Records Act or other state or federal laws. ~~All programs must comply with the following record requirements for children and staff:~~
- (a) All records ~~must~~ shall be maintained in an organized manner and ~~must~~ shall be made available to the Department upon request.
- (b) ~~Children's records shall include:~~
1. ~~A current information form, which shall be updated annually and as changes occur and which shall include:~~
    - (i) ~~The child's name and date of birth;~~
    - (ii) ~~Name of parent(s);~~
    - (iii) ~~Child's and parents' home address (or addresses) and phone numbers;~~
    - (iv) ~~Parents' business addresses, phone numbers, and approximate work hours;~~
    - (v) ~~Any special needs or relevant history of the child or the child's family; and~~
    - (vi) ~~The name and address (home and business or school) of a responsible person to contact in an emergency if parent(s) cannot be located promptly.~~
  2. ~~Name, address, and telephone number of a physician to call in case of an~~

(Rule 0520-~~1201-~~0426-.05,  
emergency.

3. ~~Written consent of parent(s) regarding emergency medical care.~~
4. ~~A written plan stating to whom the child shall be released.~~

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- ~~5. Written transportation agreement between parent and the program regarding daily transportation between home and the program and the program and school. If parents have a third-party transportation arrangement, verification and details of the arrangement shall be maintained in the child's file.~~
- ~~6. A copy of the child's health history provided by the child's parent or other caretaker, which need not be signed or certified by a health care provider, shall be on file in the program and shall be available to appropriate staff.~~
- ~~7. Daily attendance records for each child to include time in and time out.~~
- ~~8. Prior written permission of parent for each off-site activity.~~

9. Immunization record.

~~(c) A child's records shall be kept for one (1) year following the child's leaving the agency; provided, however, that the health record shall be returned to the child's parent upon request when the child leaves the agency. Records of children enrolled in pre-kindergarten programs may be made part of the child's cumulative file.~~

~~(d) Additional information for infants, toddlers and all non-verbal children shall be recorded and shared with parents daily as follows: the time and amount of feeding, any incidence of excessive spitting up, toileting and/or times of diaper changes, sleep patterns, and developmental progress. Before a child under the age of thirty (30) months of age is accepted for care, the parent shall provide proof of a physical examination within three (3) months prior to admission, signed or stamped by a physician or health care provider. This record must be kept on file at the program.~~

~~(e) School-age children's records shall include:~~

- ~~9. An information form that lists the name, address, and phone number of the school the child attends;~~
- ~~10. If the school-age program is not located within the school in which the child is enrolled, the program shall have on file a statement from the parent (or the school) that the child's immunizations are current, and that his/her health record is on file at the specified school which the child attends;~~
- ~~11. The records of any child who is five (5) years old in a center which lacks approved kindergarten status for purposes of T.C.A. § 49-6-201 shall include a signed acknowledgment from the child's parents that recognizes that the child's attendance does not satisfy the mandatory kindergarten prerequisite for the child's enrollment in first grade. The statement of acknowledgment shall be maintained in the child's file; and~~
- ~~12. Written authorization from a physician for the self-administration of medication for the current school year, if applicable.~~

~~(f) Staff records shall include:~~

- ~~1. Name, birth date, social security number, (used by the employer for Federal/State tax purposes), address, and telephone number of all staff members and a contact for each staff member in an emergency;~~

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- ~~2. Educational background and educational experiences, including dates and places of diplomas received, teaching license if applicable, and conferences, courses, and workshops attended throughout the year;~~
  - ~~3. Documentation signed by the examining licensed physician, licensed psychologist, licensed clinician, Nurse Practitioner, or Physician's Assistant, verifying that the staff person is capable of safely and appropriately providing care for children in a group setting. The documentation shall be on file within ten (10) calendar days of employment or starting to work. An updated statement of each staff member's physical health shall be obtained every third (3rd) year, or more often if deemed necessary by the Department;~~
  - ~~4. At least three (3) references from non-relatives, either written or with documented interviews of each reference on each staff member;~~
  - ~~5. Written, verified record of employment history;~~
  - ~~6. Documentation of annual performance reviews;~~
  - ~~7. Daily attendance (including time in/out) of staff;~~
  - ~~8. Signed and completed criminal history disclosure form;~~
  - ~~9. Verification of criminal background check and Vulnerable Persons Registry results;~~
  - ~~10. Documentation of trainings to include all pre-service training hours; and~~
  - ~~11. Date of employment and date of separation from the program.~~
  - ~~12. Driver records shall additionally contain:
    - ~~(i) Copy of driver's license showing proper endorsement;~~
    - ~~(ii) Verification of a passed pre-employment drug screening;~~
    - ~~(iii) Verification that the driver is included in every randomly generated pool of drivers for all annual random drug screening and proof of a passed drug test every time the driver is randomly selected; and~~
    - ~~(iv) Verification of Cardiopulmonary Resuscitation (CPR) and First Aid certifications. Drivers only providing transportation for field trips with a program staff on board are not required to have CPR and First Aid certification.~~~~
- ~~(g) Staff records shall be maintained for at least one (1) year following the separation of the staff from the program. Date of separation should be placed on the staff form.~~
- ~~(h) Records of volunteers shall be maintained and shall must include names, addresses, telephone numbers and dates of service of all volunteers.~~
- ~~Records of substitutes shall be maintained and include the names, addresses, telephone numbers and dates of service of all substitutes.~~
- ~~(i) The program staff shall not disclose or knowingly permit the use by other persons of any information concerning a child or family except as required by law, regulation, or court order.~~

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or as may be necessary to be disclosed to public authorities in the performance of their duties and which may be necessary for health, safety, or welfare of any child enrolled in the program or the child's family.

- (8) During the hours of operation, Programs shall meet the following requirements for the posting of the following documentation near the main entrance of the operating facility:
- (a) During the hours of operation, the current certificate of approval shall be posted near the main entrance in a conspicuous location.
  - (b) The Department of Human Services' toll-free complaint number shall be posted in a conspicuous location.
  - (c) The Department of Children's Services' child abuse number and the notice of requirement to report shall be posted near the main entrance in a conspicuous location and at each telephone.
  - ~~(e)~~
  - (d) A copy of these State Board of Education Chapter rules shall be maintained in a central space and available to all staff and parents.
  - ~~(d)~~(e) No smoking signs shall be posted in a conspicuous manner; and
  - ~~(e)~~(f) The program shall post the hours of operation, daily schedules, snack and meal menus, and any other materials as directed by the Department.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 37-1-403(a)(8); 49-1-302(ii); 49-1-1101 through 49-1-1109; 49-2-2110; 49-6-2101; 49-6-2105; 49-6-2107; 49-6-2108; 49-6-2114; 49-6-2116; 55-9-602, et seq.; 55-50-301, et seq.; and 55-50-401, et seq. **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

#### 0520-1201-0426-.06 PROGRAM OPERATION.

- (1) Each Pprogram shall maintain a system that enables all children in the Pprogram's care to receive a level of supervision that is appropriate to their age and their development, physical and mental status ~~so as~~ to ensure their health and safety and that allows Pprogram Staff to know the whereabouts of each Cchild.
- (a) This system shall include a mandatory visual inspection of all areas of the building and grounds immediately prior to closing the Pprogram for the day ~~in order~~ to ensure that no children have been unintentionally left in any part of the Pprogram's facilities or in any vehicles that the Pprogram uses to transport children.
  - (b) Children six (6) weeks of age through two (2) years nine (9) of age: the adult shall must be able to hear the Cchild at all times, shall must be able to see the Cchild at a quick glance, and shall must be able to physically respond immediately.
  - (c) Children six (6) weeks of age to five (5) years of age during mealtime: An adult shall be in the direct sight and sound of Cchild or /children while the Cchild or /children are eating.
  - ~~(b)~~ Children three (3) years through five (5) years of age shall be safely protected by an adult in close proximity and not distracted by other tasks and must be able to physically respond immediately.
  - (d) For children ten (10) years of age and older, the adult shall know the whereabouts and

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activities of the children at all times and ~~shall~~ must be able to physically respond immediately.

(e) For children ages ten (10) years and above who are grouped with children under ten (10) years of age, the minimum supervision requirements for children ages six (6) weeks through nine (9) years, shall be followed.

~~(e) Children six (6) weeks of age to five (5) years of age during mealtime: An adult must be in the direct sight and sound of child/children while the child/children are eating.~~

~~(d) Children who are in kindergarten, five (5) years of age, through nine (9) years of age shall be protected by an adult who adjusts restrictions appropriately for different ages and abilities and must be able to physically respond immediately.~~

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- ~~(e)~~ Children ten (10) years of age through thirteen (13) years of age: The adult shall know the whereabouts and activities of the child/children at all times and must be able to physically respond immediately. Youth/children shall have the opportunity to develop independence.
- ~~(f)~~ Children fourteen (14) years of age to eighteen (18) years of age: The adult shall know the whereabouts and activities of the children, provide age appropriate guidance and must be able to physically respond as needed.
- ~~(g)~~ Mixed age Groups. When children ages ten (10) and above are grouped with children under ten (10) years of age, the minimum supervision requirements must be in accordance with the supervision required for the age group of the youngest child in the group.
- ~~(h)~~(f) Staff shall position themselves strategically for adequate supervision and quick response.
- ~~(i)~~(g) Staff shall be aware of the dynamics, ~~(interactions,)~~ and activities of the entire Ggroup even when dealing with supervising only part of the Ggroup at a time.
- ~~(j)~~(h) Helper devices such as mirrors, electronic sound monitors, etc., may be used as appropriate to meet these requirements.
- ~~(k)~~(i) Teachers shall monitor children's toileting and be aware of their activities while respecting the privacy needs of the eChild. Programs shall~~must~~ have a bathroom supervision plan to reflect the developmental needs of children in the classroom~~Program~~. Items in plan may include, but are not limited to, location of Staff, times of bathroom breaks and locations, and emergency bathroom procedures.
- ~~(l)~~(j) The Program shall maintain a plan, ~~approved by the Department,~~ that enables a Teacher in an emergency situation to call a second (2nd) adult who can respond quickly while maintaining as much supervision of the children in care as is possible under the circumstances.
- (2) Each enrolled eChild shall be in a defined gGroup based on their age and assigned to that Ggroup with a specific Teacher.
- ~~(a)~~ Maximum group size requirements shall be maintained at all times when children are indoors with the exceptions of meals served in common dining rooms, napping in common nap rooms, or outdoors on the playground.
- ~~(b)~~(a) When infants are cared for in a sSchool-administered child care program~~center~~ with older children, they shall not be grouped with children older than thirty (30) months of age, and a separate area shall be provided for them.
- ~~(c)~~(b) In order to assure the continuity of care for children thirty (30) months of age to five (5) years of age and their tTeachers, the children shall be kept with the same gGroup throughout the day and shall not be moved, shuffled, or promoted to a new Ggroup until required based upon the developmental needs of the Cehild; provided however, that:
1. For children, Ggroups, excluding infants and Toddlers, may be combined for short periods for a special activity, including but not limited to a~~e.g.~~ special assembly, visiting performers, or community helpers, etc., of no more than thirty (30) minutes duration per day as long as adult:child ratios are met.
- ~~4.~~

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- (3) Each ~~P~~program shall adhere to the maximum ~~G~~group size and adult:child ratios required by this Chapter.

~~(a)~~ Maximum ~~G~~group size requirements shall be maintained at all times when children are indoors with the exceptions of meals served in common dining rooms, napping in common nap rooms, or outdoors on the playground.

~~(a)(b)~~ The adult:child ratios shall be maintained by the ~~P~~program while the children are indoors and on the playground.

~~(b)(c)~~ The maximum ~~G~~group size and adult:child ratio shall be based on standards set forth in this ~~Rule~~Chapter.

~~(c)(d)~~ All children physically present in the ~~P~~program's facility or the ~~P~~program's assigned area within the facility shall be counted in the adult:child ratio and ~~g~~Group size.

~~(d)(e)~~ Any number of children in excess of the adult:child ratio requires a second qualified adult ~~T~~Teacher; provided, however, that the maximum ~~G~~group size shall not be exceeded.

~~(e)(f)~~ When more than twelve (12) children are present on the premises, but a second adult is not required by the adult:child ratio rules contained in this ~~Rule~~Chapter, a second adult shall be physically available on the premises.

~~(g)~~ If meals are served, any person responsible for preparing meals and washing the dishes shall not be included in the adult:child ratio while preparing meals or washing dishes.

~~(f)(h)~~ If the Director is included in the adult:child ratio, the responsibilities of the Director shall include supervising children in a manner that complies with this Rule and in accordance with guidance issued by the Department.

- (4) Programs ~~shall~~ must meet the following ~~G~~group size and adult:child ratios as determined by the ~~C~~ehild's Age on August 15:

- (a) Maximum ~~G~~group size and adult:child ratio for single-age ~~G~~grouping:

Age	Group Size	Adult:Child Ratio
Infant (6wks-12m)	8	1:4
Toddler (11m-23m)	12	1:6
Two (2) years old	14	1:7
Three (3) years old	18	1:9
Four (4) years old	20	1:13
Voluntary Pre-K(VPK), <u>Special Education</u> <del>649</del> , Preschool <u>Development Grant (PDG)</u>	20	1:10

- (b) Maximum ~~G~~group size and adult:child ratio for multi-age ~~G~~grouping:

Age	Group Size	Adult:Child Ratio
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Infant-18 months	8	1:4
18-36 months	16	1:8
3-4 year olds only	20	1:10
3-6 years old*	24	1:13

\*Not including first grade children.

- (c) For children six (6) weeks through two (2) years, class assignment shall be based on the developmental needs of the ~~e~~Child.
- (d) For children age two (2) years and six (6) months on or before August 15th, if the director of schools finds through evaluation and testing, at the request of the ~~p~~Parent or legal guardian, that a ~~e~~Child is sufficiently mature, emotionally and academically, then the ~~e~~Child may be permitted to enter a ~~M~~mixed-Age three through six (3-6) year old ~~classroom~~Program.
- (e) For children three (3) years through ~~P~~pre-kindergarten, class assignment shall be determined based on the ~~C~~child's ~~A~~age on August 15<sup>th</sup> ~~pursuant to T.C.A. § 49-6-3001. If the director of schools finds through evaluation at testing, at the request of the parent or legal guardian, that a child who has a birthdate from August 16th through September 30th is sufficiently mature, emotionally and academically, then the child may be permitted to enter the next classroom level.~~
- (f) Group sizes or class assignments and adult:child ratios may not be adjusted based on a change to a ~~C~~child's ~~A~~age during the school year. Schools shall not change a ~~classroom~~Program status mid-year (e.g., from single-age to multi-age, due to a ~~C~~child's ~~A~~age).
- (~~e~~)g) Maximum ~~G~~group size and adult:child ratio during arrival and departure (1 hour prior to and end of the school day), excluding ~~I~~infants and ~~T~~toddlers:

Age	Group Size	Adult:Child Ratio
Including <del>3-year-olds</del> <del>3-year-olds</del>	15	1:10
Including <del>4-year-olds</del> <del>4-year-olds</del>	20	1:12

- (~~f~~)h) Maximum ~~G~~group size and adult:child ratio during before and after school ~~P~~programs for birth through five:

Age	Group	Adult:Child Ratio
Infant – 36 months	Ratio and Group size remains the same	
3-4-year-olds	22	1:13
4-year-olds – <del>K</del> kindergarten	24	1:16

- (5) During naptime ~~and nighttime care~~ adult:child ratios may be relaxed so long as the children are ~~adequately protected~~supervised and all of the following requirements are met:
- (a) At least one (1) adult shall be ~~awake and~~ supervising the children in each nap room or sleeping area; ~~and~~

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- (b) ~~Infant/toddler~~ For ages six (6) weeks to thirty-six (36) months, ratios shall be maintained at one hundred percent (100%); and
- (c) The adult:child ratio for children ages three (3) years and above can be fifty percent (50%) of the required ratio if there are enough adults on the premises so that the adult:child ratio required for children when they are awake shall be met immediately in an emergency.
- ~~(e)(d) Maximum Group size limits do not apply as long as the appropriate adult:child ratio is met at the fifty percent (50%) level.~~
- ~~(d) (d) Maximum Group size limits do not apply as long as the appropriate adult:child ratio is met at the fifty percent (50%) level.~~
- (6) Each Program shall have a written playground supervision plan that includes:
- (a) Arrival and departure procedures;
- (b) Supervision assignments of staff to assure that all areas of the playground can be seen so that all children can remain within sight of the Teachers;
- ~~(b) —~~
- (c) Identification of which Staff will merely supervise in their assigned zone while other Staff, if any, interact with children as play facilitators;
- (d) Emergency plans specific to a variety of circumstances, such as, eChild injury, weather evacuation, toileting, and other personal care needs of children or Staff, etc.; and
- (e) A communication link among playground supervisors and a designated Staff ~~person~~, if available, inside the Program's facility.
- (7) Programs shall meet the following requirements for Off-site Activities and swimming:
- (a) The required adult:child ratio for Preschool children shall be doubled during off-site visits.
- (b) In order for Parents or guardians to be included in the adult:child ratio for Off-site Activities, the school ~~shall~~must have required a TBI/FBI background checks, Child abuse check, and vulnerable person's registry check on file for the Parent or guardian.
- (c) For children in Kindergarten through thirteen (13) years of age the following requirements shall be met:
- The number of ~~trained~~ teachers required to be present on Off-site Activities shall be at a minimum, equivalent to the number that would be required in the classroomProgram; additional adults to meet the following off-site ratios in chart below may be Teachers, Volunteers and/or unpaid staff.

Number of children	<del>T</del> trained Teachers	Additional Adults	Total Adults Required
1 – 20	1	1	2
21 – 30	2	1	3
31 – 40	2	2	4
41 – 50	3	2	5

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- (d) For children age fourteen (14) to eighteen (18), the number of ~~trained~~ ~~T~~Teachers required to be present on ~~O~~ff-site ~~A~~activities shall yield an adult:child ratio of 1:20, additional adults to meet this ratio may be ~~T~~Teachers, ~~v~~Volunteers and/or unpaid staff.
- (e) A minimum of two (2) adults is required for any ~~O~~ff-site ~~A~~activity.
- (f) Programs shall maintain a system utilizing an off-site attendance roster~~l~~ which ~~ensures~~ ~~tracks~~ the whereabouts of each ~~C~~child while off the premises.
- (g) The following requirements ~~must~~~~shall~~ be met when children are swimming:
1. The following adult:child ratios shall be followed:

Age	Adult:Child Ratio
<del>Infant</del> <del>Six (6) weeks – twelve (12) months</del>	1:1
Thirteen (13) – thirty-five (35) months	1:2
Three (3) years old	1: <del>3</del> 4
Four (4) years old	1: <del>4</del> 6

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Five (5) years old	1: <del>58</del>
<del>School-age (Kindergarten and above) thirteen (13) years</del>	1:10
<del>Fourteen (14) — eighteen (18) years</del>	<del>1:120</del>

~~2. Group swimming for infants and toddlers is not recommended.~~

~~3.2.~~ At least one (1) adult present shall have a current certificate in advanced aquatic lifesaving skills. This person may include the lifeguard and shall ~~must~~ supervise from above the level of the swimmers, preferably from an elevated lifeguard chair.

~~4.3.~~ The lifeguard shall ~~may~~ not be included in the required adult:child ratio ~~while performing lifeguard duties.~~

4. Remaining ~~†~~Teachers shall ~~hold~~ supervise both in and out of the water.

5. A written Swimming Pool Supervision Plan shall be created and include Staff assigned to specific monitoring areas both inside and outside of the pool.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 37-1-403(a)(8); 49-1-302(i); 49-1-1101 through 49-1-1109; 49-2-2110; 49-5-413; 49-6-2101; 49-6-2105; 49-6-2107; 49-6-2108; 49-6-2114; 49-6-2116; 49-6-3001; 55-9-602, et seq.; 55-50-301, et seq.; 55-50-401, et seq.; and 71-3-507(g) and (h). **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

#### 0520-~~0812-~~01-.07 STAFF.

(1) All Programs shall be staffed with a ~~d~~Director and enough ~~†~~Teachers and staff to meet the required adult:child ratios. If the Director is included in the adult:child ratio, the responsibilities of the Director shall include supervising children in a manner that complies with this Rule and in accordance with guidance issued by the Department.

~~(1)(2)~~ All Staff employed in Pre-~~K~~kindergarten ~~School-administered child care p~~Programs shall meet all state licensure requirements as required by Rule 0520-02-03.

~~(2)(3)~~ Every All Staff person, including Auxiliary staff, substitute staff, vVolunteers, students in work-based learning or apprenticeship placements, and practicum students, shall be physically, mentally, and emotionally capable of using the appropriate judgment for the care of children, and otherwise performing his/her/their duties satisfactorily. A person who has a physical, mental, or emotional condition, which is in any way potentially harmful to children, shall not be present with the children.

~~(3)~~ Every All Staff person, both paid and unpaid, shall be at least twenty-one (21) years of age in order to work in a school-administered child care pProgram except an individual who is less than twenty-one (21) years of age, who has earned a Child Development Associate, an associate's degree, or bachelor's degree, in an early Cchild Ccare Program.

(4) At least one (1) adult available on the premises ~~at all times~~ during Program operating hours shall be able to read and write English.

(5) Prior to assuming duties, each new employee shall receive two (2) hours of orientation, and be able to explain the Program philosophy, emergency procedures, policies regarding discipline of children, policies regarding the reporting of child abuse, Sudden Infant Death Syndrome (SIDS), and policies for receiving and dismissing children.

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- (6) Within the first two (2) weeks on the job of employment and annually thereafter, each employee, including Deirectors, ~~Te~~achers, substitute staff, ~~Volunteers~~, students in work-based learning or apprenticeship placements, and practicum students, shall receive annual instruction in:
- (a) Child abuse detection, reporting, and prevention;
  - (b) Parent-~~center~~-Program communication;
  - (c) Disease control and prevention and health promotion;
  - (d) An overview of certificate of approval requirements;
  - ~~(e)~~ Information on risks of infection to female employees of childbearing age;
  - ~~(f)~~(e) Food allergies;
  - ~~(g)~~(f) Supervision during high risk activities, such as eating and outdoor play;
  - ~~(h)~~(g) Meal service and safe food preparation policies;
  - ~~(i)~~(h) Shaken baby syndrome;
  - ~~(j)~~(i) Abusive head trauma;
  - ~~(k)~~(j) Safe sleep procedures;
  - (k) Developmentally Appropriate Ppractices;
  - (l) Administration of medication (where applicable)
  - (m) Emergency preparedness and first aid;
  - (n) Storage of hazardous materials and bio contaminants;
  - ~~(o)~~(n) Precautions in transporting children (if applicable); and
  - ~~(p)~~(m) Policies regarding discipline and supervision of children.
- (7) All training ~~must shall~~ be documented ~~in the Program's records~~ and be available for review by the Department's staff at any time.
- (8) The Program ~~shall must~~ maintain written documentation that each employee has read the full set of ~~this Rule~~ all applicable rules. In addition, a copy of these rules shall be ~~maintained in an area that is~~ readily accessible to all Sstaff.
- (9) Each Program location where children are present shall have an on-site ~~d~~Director. The on-site ~~d~~Director, with the guidance of the board or owner of the Program, shall be responsible for Sstaff and the day-to-day operation of the Program. On-site Directors shall meet the following criteria:
- (a) The on-site Director of a Program shall be a full-time employee and shall be physically present in the Program's facilities daily at least half of the total hours of operation.
  - (b) A Director shall be at least twenty-one (21) years of age ~~if hired after June 30, 2017~~ and shall meet at least one (1) of the minimum qualifications in both columns as follows: listed below:

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

- (c) Within the first thirty (30) days of employment by a Program, a Director shall complete an orientation provided by the Department t of Education.
- (d) Directors shall anually complete at least thirty (30) hours of professional development, of which six (6) hours shall be in administration management or supervisory training and six (6) hours shall be in Developmentally Appropriate Literacy Practices.
- (e) If a Director serves a dual role (e.g., an individual serving as the director and a Teacher), the duties of each role shall be performed separately and not simultaneously.
- (10) Programs may employ an on-site assistant director. An on-site assistant director or other Staff member shall be designated to be in charge in the absence of the Director, and all Staff shall be notified of this designation. On-site assistant directors shall meet the following criteria:
- ~~(a)~~ The on-site assistant director shall be at least twenty-one (21) years of age if hired after June 30, 2017 and shall have at least two (2) years of college training or a Department recognized credential and one (1) year of full-time or two (2) years of part-time school-age care documented work experience (paid or unpaid) in a group setting; or
- ~~(b)~~
- (e)(a) The on-site assistant Director shall be at least twenty-one (21) years of age and shall have earned a high school diploma or high school equivalency credential approved by the State Board and two (2) years of full-time or four (4) years of part-time school-age care documented work experience (paid or unpaid) in a group child care or school setting.

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- ~~(d)~~(b) Within the first thirty (30) days of employment, assistant directors shall complete an orientation training provided by the Department of Education, or a Department-approved training module~~et. child care program evaluator~~Early Learning Division.
- ~~(e)~~(c) Assistant directors shall complete at least thirty (30) hours of professional development, of which six (6) hours shall be in Ddevelopmentally Appropriate Literacy Ppractices and three (3) hours shall be in administration management or supervisory training.
- ~~(11)~~ All Teachers and assistant teachers shall be at least twenty-one (21) years of age if hired after June 30, 2017 and shall meet the following criteria:

~~(11)~~ \_\_\_\_\_

- ~~(a)~~ Before assuming teaching duties, teachers and assistant teachers shall complete two (2) clock hours of pre-service orientation training offered or recognized by the Department. Pending completion of the orientation training, the teacher's employment status with the Program is conditional. Up to two (2) hours of training credit may be earned for Child and Adult Care Food Program (CACFP) training or USDA Free and Reduced Price Meal Program training.

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(a) Full-time ~~T~~teachers and assistant teachers shall complete at least thirty (30) hours of professional development annually, and .At least six (6) hours of the required professional development shall be obtained outside of the Program. At least six (6) hours of the professional development shall be in Ddevelopmentally Aappropriate Lliteracy Ppractices.

(b)

~~(c) At least six (6) hours of the required professional development shall be obtained outside of the Program. At least six (6) hours of the professional development shall be in developmentally appropriate literacy practices.~~

~~(d)~~(b) Teachers shall ~~be evaluated for~~demonstrate knowledge and understanding of growth and development patterns of children and understanding of appropriate activities for all children, as well as those with special needs

(12) Part-time ~~T~~teachers and teaching assistants shall meet the following criteria:

(a) Prior to assuming duties, part-time ~~t~~teachers and assistant teachers shall complete two (2) ~~hours~~ clock hours of pre-service orientation training offered or recognized by the Department.

(b) Part-time ~~T~~teachers and assistant teachers shall complete at least fifteen (15) hours of professional development, of which three (3) shall be in Ddevelopmentally Aappropriate Lliteracy Ppractices and three (3) shall be obtained by completing the required trainings found in this Rule. .obtained outside of the Program.

(c) Part-time ~~T~~teachers shall ~~be evaluated for~~demonstrate knowledge and understanding of growth and development patterns of children and understanding of appropriate activities for all children, as well as those with special needs.

(13) ~~Programs may employ substitute staff. Substitute staff employed in School-administered child care pPrograms, other than Local Education Agency (LEA) Pre-kK~~kindergartens, are not subject to the requirements of T.C.A. § 49-3-312 or T.C.A. § 49-5-709. ~~Substitute staff teachers shall meet the following criteria:~~

(a) ~~Substitute staff~~ shall comply with the same orientation requirements defined by these rules for all Program ~~S~~staff and shall be provided a Programclassroom orientation prior to assuming duties.

(b) ~~Substitute staff~~ who have acted as ~~T~~teachers for two hundred (200) or more hours in the previous calendar year shall meet the training requirements contained in the rules for part-time ~~T~~teachers.

~~(c)~~ Auxiliary staff may be used as emergency ~~substitute staff~~ if their qualifications permit, but not while performing auxiliary duties.

~~(c)~~  
(a) ~~Substitute staff~~ shall meet the ~~criminal same~~ background check requirements ~~and the same requirements as regular Sstaff for the physical examination required by this Rule Chapter.~~

~~(d)~~  
(d) ~~Practicum Students.~~ Persons serving temporarily as ~~T~~teachers in field service placements as part of an educational course of study or other curriculum requirement (e.g., practicum students) shall not ~~serve be considered~~ as ~~substitute staff~~ for purposes of this paragraph.

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- (14) ~~A volunteer is a person who provides services for a child care center without payment and who is used to supplement the regular staff or substitutes.~~ Volunteers shall not be included in the adult:child ratios. The on-site ~~d~~Director shall be responsible for and supervise the activities of ~~v~~Volunteers to assure the safety of children.
- (15) All ~~School administered child care p~~rograms shall require any person employed in a position ~~with requiring~~ proximity to children to:
- (a) ~~(a)~~ Provide evidence of all background checks required pursuant to state and federal law. of the following:
  - (b) ~~(b)~~ Department of Health ~~Vulnerable Persons Abuse Registry~~ check;

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1. ~~TBI/FBI Fingerprint and Background check; and~~

2. ~~TBI/FBI Sex Offender Registry.~~

~~(e)(b)~~ This evidence ~~must~~shall be obtained by the Program prior to employment.

~~(d)(c)~~ The Program shall immediately review the report of the background check received from the Tennessee Bureau of Investigation, and shall immediately consult with the Department to resolve any questions relative to the person's status. Upon determination that the person's status prohibits the person from having access to children as described in this Chapter, the Program shall immediately exclude such person from access to children. Failure to exclude the person under this part will result in immediate suspension of the Program's certificate of approval.

~~(e)(d)~~ A new fingerprint sample must be obtained, for all employees, every five (5) years.

(16) No individual with a prohibited criminal history as defined below may work, substitute, or ~~v~~Volunteer in a Program, be an owner, ~~d~~Director, or manager of a Program who has access to children, have significant contact with children or otherwise have unrestricted access to children in any manner whatsoever. An individual shall be immediately and automatically excluded from a Program or any contact whatsoever with children if the individual's criminal history includes:

(a) A criminal conviction or a no-contest or guilty plea; or any pending criminal action, including individuals subject to any warrant, indictment, or presentment, etc.; or placement in a pretrial diversion; or

(b) A pending juvenile action or previous juvenile adjudication, which, if an adult, would constitute a criminal offense; and

(c) Any of the circumstances in (a) or (b) above involves any of the following criminal offenses:

1. Any offense (including a lesser included offense) involving the physical, sexual, or emotional abuse or gross neglect of a ~~e~~Child or involving a threat to the health, safety, or welfare of a Child;

2. Any offense (including a lesser included offense) involving violence, or the threat of violence against another person; ~~and~~/or

3. Any offense (including a lesser included offense) involving, the manufacture, sale, distribution, or possession of any drug.

(17) An individual shall also be immediately and automatically excluded from the Program or from access in any manner whatsoever to the children in the care of the Program, if the individual:

(a) Reveals a prohibited or potentially prohibited criminal history on the criminal history disclosure form;

(b) Is listed on the Department of Health's Vulnerable Persons Abuse Registry; or

(c) Is known to the Program as a perpetrator of child abuse or child sexual abuse or to have a prohibited criminal record, who is identified to the Program's management by the Department of Children's Services as a validated perpetrator of abuse of a Child based upon an investigation conducted by the Department of Children's Services or by they

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~~the~~ child protective services agency of any other state; or, who at any time is identified by any person or entity to the Program's management and is confirmed by the Department as having a prohibited criminal history.

- (18) An individual with a prohibited history as set forth below shall be immediately and automatically excluded from providing driving duties on behalf of the Program if the individual:
- (a) Has a pending criminal action, ~~(including warrants, indictments, presentments, etc.)~~ and is completing pretrial diversion, or has been convicted of or pled guilty to any offense involving the use of a motor vehicle while under the influence of any intoxicant, which constitutes a violation of T.C.A. §§ 39-13-213, 55-10-101, 55-10-102, or 55-10-401; or
  - (b) Has been convicted of or pled guilty to any felony involving the use of a motor vehicle while under the influence of any intoxicant. In such cases, the individual shall not be employed or otherwise serve as a driver for a Program for a period of five (5) years from the date of the conviction or guilty plea.
- (19) An individual who has been identified by the Department of Children's Services as having neglected a Cchild based on an investigation conducted by the Department of Children's Services, or any child protective services agency of any state, and who has not been criminally charged or convicted or pled guilty as stated above, shall be supervised by another adult while providing care for children.
- (20) Any person who is excluded or whose certificate of approval or operator status is denied based upon the results of the ~~criminal history~~ background review or based upon any other determination may request, in writing, to the Department within ten (10) calendar days of receiving notice of such exclusion or denial, a waiver from these automatic exclusion requirements.
- (a) Requests for a waiver ~~must~~ shall state the basis for the request, including any extenuating or mitigating circumstances that would, in the person's opinion, clearly warrant an exemption from the exclusion. Any documentary evidence may also be submitted with the request.
  - (b) Requests for waivers ~~must~~ shall be heard by an advisory committee, composed, at a minimum, of law enforcement personnel, persons experienced in child protective services, persons experienced in child development issues, and Cchild Ccare providers Programs issued a certificate of approval by the Department and reviewed by the Department.
  - (c) Any person who is excluded from providing care or services to children under any provisions of this subchapter shall remain excluded pending the outcome of any exemption review and appeals.
- (21) The Department may, at any time, request that the ~~criminal~~ background status or the Department of Health's Vulnerable Persons Abuse Registry of any individuals having access to children under any of the circumstances set forth in this subchapter be reviewed using the processes described above.
- (22) The employment status of persons for whom a post-employment ~~criminal~~ background check was conducted, or the status of existing Program owners or operators, substitute staff or ~~V~~Volunteers of a Program for whom a ~~criminal~~ background check was conducted after issuance of a certificate of approval or after employment or assuming duties as a ~~V~~Volunteer or substitute staff, and who were not otherwise subject to a pre-status applicant background check and to the exclusionary provisions provided in this subchapter, shall be governed by the provisions of this Chapter.

~~(22)~~ \_\_\_\_\_

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~~(23)~~ The director of schools or equivalent of an employing public or non-public school, school district, or public charter school shall report to the State Board licensed educators who have been suspended or dismissed, or who have resigned, following allegations of misconduct, including sexual misconduct, which, if substantiated, would warrant consideration for license suspension, revocation, or formal reprimand under Rule 0520-02-03-.09.

(Rule 0520-~~1201-0426-~~.07,  
~~(23)~~)

**Authority:** T.C.A. §§ 4-5-201, et seq.; 49-1-302(i); 49-1-1101 through 49-1-1109; 49-2-203; 49-5-413; and 71-3-507(g) and (h). **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019. Amendments filed November 27, 2023; effective February 25, 2024.

#### ~~0520-12-01-.08 REPEALED.~~

~~**Authority:** T.C.A. §§ 4-5-201, et seq.; 49-1-201(c)(24); 49-1-302(i); 49-1-1101 through 49-1-1109; and 49-2-203(b)(11) and Executive Order No. 24 (November 11, 1988). **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Repeal filed November 2, 2017; effective February 1, 2018.~~

#### ~~0520-1201-0426-.09 PROGRAM REQUIREMENTS.~~

- (1) Educational activities shall be based on ~~D~~developmentally ~~A~~appropriate ~~E~~educational ~~P~~practices.
- (a) ~~Children enrolled in Infant/Toddler classrooms-Programs ages six (6) weeks to twenty-four (24) months shall~~ ~~must~~ be provided opportunities to participate in a Department approved education curriculum that is aligned with the Tennessee Early Learning Development Standards (TNELDS) and, ~~shall~~ ~~must~~ show evidence that children are ~~be~~ provided ~~the opportunities~~ to: (See TNELDS standards for Birth-48 months)
1. Sit and listen to ~~a T~~teacher read aloud ~~to them~~ ~~him/her~~ individually and in a ~~G~~group ~~setting~~; ~~daily~~;
  2. Engage in interactive, ~~child-directed~~ play that includes activities such as movement, dance, musical games, and pretend play that encourages the use of both large and small muscles;
  3. Engage in meaningful conversations with ~~T~~teachers;
  4. Engage in ~~facilitated exploration by~~ touching, feeling, and identifying ~~ing~~ a variety of known and unknown objects;
  5. Explore a variety of culturally diverse books that encourage early literacy skill development and increase children's knowledge about the world around them. These books should represent different genres, ~~including but not limited to~~ ~~e~~ poetry, nonfiction, fiction, ~~and~~ informational texts, ~~;~~ ~~etc.~~; and
  6. Experience daily tummy time.
- (b) ~~Children enrolled in Ppreschool/Pre-kK~~ ~~kindergarten classrooms-Programs~~ ages twenty-four (24) months to five (5) years ~~shall~~ ~~must~~ be provided opportunities to participate in a Department approved education curriculum that is aligned with the Tennessee Early Learning Development Standards (TNELDS) and ~~shall~~ ~~must~~ be show evidence that children are ~~provided the opportunities~~ to: (See TNELDS standards for 48 months to kindergarten)

~~(b)~~

(Rule 0520-~~1201-~~0426-.07,

1. Sit and listen to ~~a T~~teacher read aloud to ~~them, him/her~~ individually and in ~~a G~~group daily;
2. Engage in pretend play;
3. Engage with ~~D~~developmentally ~~A~~appropriate ~~E~~educational and open-ended materials, (i.e., blocks, clay, sand);
- ~~4.~~ Engage in meaningful conversations with peers and ~~T~~teachers;

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5. Write, create ~~books~~, and engage with print-rich materials;
  6. Engage with a variety of culturally diverse books and materials that encourage early literacy skills in ~~concepts about print~~ concepts, phonemic awareness (e.g., rhyming, manipulating sounds, isolating sounds, alliteration), and, genres, letter identification; ~~beginning sounds, etc.~~;
  7. Engage in a variety of activities that support number sense, mathematical thinking, and understanding; and
  8. Help with daily classroom Program and self-care routines.
- (c) Children enrolled in any LEA Pre-K kindergarten Program ~~shall~~ must participate in Department approved educational curriculum that is aligned with the Tennessee Early Learning Developmental Standards and guidance provided by the Department.
- (d) Staff shall plan ahead for Developmentally Appropriate activities, and written lesson plans shall be provided for children of each age group.
- (e) There ~~must~~ shall be a balance ~~between a~~ Child's choice and adult-directed activities.
- (f) A daily Program shall provide opportunities for learning, self-expression, and participation in a variety of creative activities such as art, music, literature, dramatic play, science, and health.
- (2) Non-educational Program activities shall be stimulating and Developmentally Appropriate.
- (a) Any technology children engage in shall be Developmentally Appropriate, previewed by Staff for content, approved by Parents, and shall not exceed ~~two (2) hours~~ one hour per day.
- ~~(b) — There shall be alternating periods of vigorous activity and rest throughout the day.~~
- ~~— Children shall not be left in restraining devices such as swings, car seats, or high chairs more than (in excess of thirty (30) minutes consecutively.) Stimulation shall be provided to children in those settings. Pursuant to T. C. A. § 49-10-1305(e), restraining devices must never be used for behavior management of students with disabilities.~~
- ~~(c)(b)~~
- ~~(d)(c)~~ Opportunities ~~must~~ shall be provided for children to interact with one another.
- ~~(e)(d)~~ Opportunities ~~must~~ shall be provided for children to be by themselves to play alone ~~or do homework~~, if they choose, in a small quiet area away from other activities.
- ~~(f)(e)~~ Youth ten (10) years and older Children shall be encouraged to participate in the planning of their schedules and activities.
- ~~(g)(f)~~ Indoor physical activities, requiring children to use both large and small muscles, ~~must~~ shall be provided for children of each age group.
- ~~(h) — For infants and toddlers, a portion of the day shall include floor time for activities that develop physical, social, language and cognitive skills.~~
- ~~(i) — Infants and toddlers shall have language experiences with adults on a daily basis.~~
- (3) For ages three (3) through school-age, the Program curriculum shall include instruction in personal safety.

(Rule 0520-~~1201-0426-~~.09,

~~(a)~~—The personal safety curriculum ~~must~~shall include a Department-recognized component on the prevention of child abuse, based upon Department ~~curriculum~~ guidelines. The\_

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- (a) ~~P~~Program may choose terminology and instructional methods for this curriculum with a goal of providing clear, effective, and appropriate instruction to the children in personal safety, including the prevention of child abuse.
- (b) The personal safety curriculum used by the ~~P~~Program shall be made available to the ~~p~~Parents and legal guardians for review.
- (c) The record of each enrolled ~~C~~child shall include a copy of the signed notification form acknowledging that ~~p~~Parents/legal guardians have been provided an opportunity to review the ~~P~~Program's agency's personal safety curriculum, and have been notified of the ~~sexual abuse/~~personal safety curriculum, including sexual abuse content, for their ~~C~~child.
- (d) If ~~p~~Parents/legal guardians have questions regarding the personal safety ~~component of the~~ curriculum, a representative of the ~~P~~Program shall meet with the ~~p~~Parent/legal guardian to discuss the personal safety component of the curriculum.
- (e) For ~~s~~School-age children, the personal safety curriculum is integrated into the Health and Wellness Standards curriculum during the school day for K-12 students. The ~~S~~School-age children enrolled in the ~~P~~Program shall be provided information on reporting physical, verbal, or sexual abuse to the students.
- ~~(f) Children, enrolled in a school-administered pre-kindergarten program, shall participate in an educational curriculum, aligned with the Tennessee Early Learning Developmental Standards as required by T.C.A. § 49-6-104(b)(5).~~
- (4) ~~Programs shall~~must integrate a minimum of forty (40) minutes of physical activity per full school day for Children in care for six (6) or more hours. An opportunity for outdoor play ~~must~~shall be extended to children of all ages who are in care more than three (3) daylight hours; provided, however, for ~~P~~Programs where outdoor play is prohibitive or dangerous, as determined at the discretion of the Department, unoccupied indoor space providing fifty (50) square feet per ~~C~~child is acceptable.
- (a) Children shall be provided an opportunity for outdoor play when the temperature range, after adjustment for wind chill and heat index, is between thirty-two (32) degrees and ninety-five (95) degrees Fahrenheit and not raining.
- (b) Teachers shall be alert for signs of dehydration, heat stroke, frostbite, and other relevant medical conditions, dependent upon the season.
- (c) Each ~~Program~~agency shall develop a set of age-appropriate playground rules that uses positive language. Rules shall be posted in each play area.
- (5) Programs shall meet the following behavior management criteria:
- (a) Discipline ~~must~~shall be reasonable, appropriate, and in terms the children can understand.
- (b) Discipline that is shaming, humiliating, frightening, verbally abusive, or injurious to children shall not be used.
- (c) Discipline ~~must~~shall not be related to food, rest, or toileting.
- (d) Spanking or any other type of corporal punishment is prohibited.
- (e) Praise and encouragement of good behavior ~~must~~shall be used.
- ~~(f) Time out~~ must~~shall~~ be reasonable and ~~D~~evelopmentally ~~A~~ppropriate.

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~~(f)~~

(Rule 0520-1201-0426-.09,

1. Time out must shall take place in an appropriate location based upon the development of the Cchild.
  2. The length of each time out session must shall be based on the age of the Cchild and must shall not exceed one (1) minute per each year of age of the Cchild; provided, however, that in no event shall any child below the age of thirty-six (36) months be placed in time-out for more than three (3) minutes, and no Cchild between thirty-six (36) months and sixty (60) months of age shall be place in time-out for longer than five (5) minutes.
- (6) Toilet training must shall never be started until a Cchild has been in the Pprogram long enough to feel comfortable and is able to communicate their need to use the bathroom. Children shall not be made to sit on the toilet for more than five (5) minutes.
  - (7) Children shall not be in care for more than twelve (12) hours in a twenty-four (24) hour period except in extraordinary special circumstances, including but not limited to, ~~(e.g.,~~ acute illness of or injury to Pparents, severe weather conditions, natural disaster, and unusual work hours). In such cases, every effort must shall be made to minimize the amount of time spent in the Pprogram by exploring and documenting alternatives such as ~~(i.e.,~~ part-time care, care with a relative, or other available etc.) Individualized options. Individualized plans for the care of a Cchild for more than in excess of twelve (12) hours due to extraordinary special circumstances must shall be signed by the Pparent and the Director/administrator and must be approved by the Department. Plans must shall be updated annually.
  - (8) When more than twelve (12) School-age children in first (1st) grade and above are present alongside the Cchild Ccare Pprogram, a separate Group, a separate space, and a separate Program type shall be provided for them.
  - (9) Routines such as snacks, meals, and rest must shall occur at approximately the same time each day.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 37-1-403; 37-1-601; 37-1-603; 49-1-302(i); 49-1-1101 through 49-1-1109; and 49-6-104. **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

#### 0520-1201-0426-.10 HEALTH AND SAFETY.

- (1) Current and comprehensive first aid information must shall be available to all Staff who interact with children. A standard first aid kit ~~(for example~~ example.g., kits one (1) approved by the American Red Cross) must shall be available to all Staff, and all Staff shall be familiar with its contents and use. Each Program shall provide periodic training and updates on basic first aid and the use of the first aid kit.
- (2) At least one (1) staff member who has current certification in first aid from a certifying organization recognized by the Department shall be on duty at all times. The first aid certification course must shall be a minimum of three (3) hours and shall be taught by a certified first aid instructor.
- (3) At least one half (1/2) of the staff members on duty shall hold current certification in Infant/Pediatric Cardiopulmonary Resuscitation (CPR) from the American Red Cross, the American Heart Association, or other certifying organization, as recognized by the Department.

~~(3)~~ \_\_\_\_\_

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- (a) The initial CPR course must be a minimum of four (4) hours and must be taught by an individual currently certified, as recognized by the Department, to provide CPR instruction.
  - (b) When ~~s~~School-age children are present, and/or in a school-age only Program, at least one (1) staff member shall hold current certification in adult CPR.
- (4) Each Program, in consultation with appropriate local authorities, shall develop a written plan to protect children in the event of disaster such as ~~, but not limited to,~~ fire, tornado, earthquake, chemical spills, floods, etc. and shall inform Parents of the plan.
- ~~(a)~~ The Program shall implement these emergency procedures through timely practice drills to meet local regulations and local emergency services plans ~~, and shall maintain documentation of drills for one (1) year.~~
  - ~~(b)~~ The Program shall conduct fire drills a minimum of once every thirty (30) school days, with two of these drills occurring during the first thirty (30) days in the school year.
  - ~~(c)~~ Programs shall ~~must~~ maintain documentation of drills for one (1) year, including a detailed record of all fire drills with the time and date.
  - ~~(d)~~ Extended Care: At least one (1) of these drills must be conducted during extended care hours ~~, if applicable.~~
- (5) Smoking is not permitted on the premises of a childcare Program ~~s.~~
- ~~(6)~~ The consumption or possession of alcohol is not permitted on the premises of a School-administered child care Program.
- ~~(7)~~ Firearms ~~must~~ not be on the ~~\_~~premises of a childcare Program, or in any vehicle used to transport children or in the presence of a Child, ~~unless otherwise permitted under T.C.A. § 49-17-13 and T.C.-A. § 49-50-803.~~
- ~~(1)~~ .
- ~~(6)~~~~(8)~~ Kitchen knives and other potentially dangerous utensils or tools must be secured so that they are not accessible to children.
  - ~~(7)~~~~(9)~~ Staff's personal belongings (such as ~~, but not limited to,~~ contents of purses, backpacks, coat pockets, diaper bags, ~~etc.~~) shall ~~be~~ always be inaccessible to children ~~at all times.~~
  - ~~(8)~~~~(10)~~ The following emergency telephone numbers must be ~~posted next to all telephones and~~ be readily available to any staff member:
    - (a) Fire department;
    - (b) Police department/sheriff;
    - (c) Nearest hospital emergency room;
    - (d) Child abuse hotline;
    - (e) Local emergency management agency;
    - (f) Ambulance or rescue squad;
    - (g) Poison control center;

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(h) 911 or a similar generic number operated in the community; and

(i) Contact numbers for ~~P~~parents.

~~(9)~~ (11) Programs shall comply with the following rules for the health of children:

~~(9)~~

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- (a) All children shall be checked by Staff upon arrival and observed for signs of communicable disease during the day.
- (b) A Cchild's temperature should be taken by Staff using a non-invasive method unless otherwise prescribed by a physician. Symptomatic children shall be removed from the Ggroup by Staff until Pparents are contacted and health issues are resolved.
- (c) ~~Impetigo and diagnosed strep shall be treated appropriately for twenty-four (24) hours prior to readmission of the child to the Program. A Cchild shall be fever-free for twenty-four hours prior to readmission to the Program.~~
- (d) Children diagnosed with ~~scabies or lice~~ shall not be sent home early, but rather at the end of the school day and can return to school the next day with proper treatment, have proof of treatment prior to readmission.
- (e) The Program may not provide care and/or isolation for a Cchild with contagious conditions unless written instructions are obtained from a licensed physician or certified health care provider.

~~(e)~~ \_\_\_\_\_

All children born in countries other than the United States, Canada, those in Western Europe, Australia, New Zealand, and Japan shall present evidence of a tuberculosis risk assessment performed in the U.S. at any time after twelve (12) months of age and evidence of tuberculosis testing if performed because of the tuberculosis risk assessment. tuberculin skin test performed in the United States at any time after twelve (12) months of age. Any Cchild with a positive tuberculin skin test or positive tuberculosis blood test shall ~~shall~~ be referred to a physician for evaluation. After the initial evaluation, future periodic screening is not required unless the Cchild develops persistent pulmonary symptoms or there is contact with tuberculosis.

(f) \_\_\_\_\_

- ~~(f)~~(g) Staff shall make every reasonable attempt to notify Pparents ~~or guardians~~ immediately when a Cchild shows signs of serious illness, including but not limited to, high temperature, disorientation, coughing, vomiting or diarrhea with blood present, severe difficulty breathing, seizure, ~~etc.~~ to arrange for emergency treatment.
- ~~(g)~~(h) In no event shall the Program delay seeking emergency treatment due to a delay in making contact with the Pparent ~~or guardian~~.
- ~~(h)~~(i) Parents ~~or guardians~~ of every Cchild enrolled shall be notified immediately if one (1) of the following communicable diseases has been introduced into the Program:

1. Hepatitis A;
2. Food-borne outbreaks;
3. Salmonella;
4. Shigella;
5. Measles, mumps, and/or rubella;
6. Pertussis;
7. Polio;
8. Influenza type A or B;
9. Meningococcal meningitis;

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10. Staphylococcus aureus; and
11. Any other illness identified by the state or local Department of Health.

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~~(i)~~(j) The Program shall report the occurrence of any of the above diseases to the local health department as soon as possible, but no later than the end of the day in which it occurred.

(12) Program Staff shall make every reasonable attempt to notify Parents or guardians immediately when a Child sustains ~~severe~~injury/injuries(s), including but not limited to, massive bleeding, broken bones, head injuries, or possible internal injury, etc., to arrange for emergency treatment.

~~(10)~~(13) Tuberculosis (TB) screening prior to on-going contact with children is recommended for any staff individual who:

- (a) Was born in a country other than the United States, Canada, Western Europe, Australia, New Zealand, and Japan;
- (b) Has a weakened immune system (including but not limited to Human Immunodeficiency Virus (HIV), cancer, taking chemotherapy drugs, etc.); or
- (c) Has been recently exposed to tuberculosis.

~~(11)~~(14) The administration of medication shall be in compliance with the following and T.C.A 49-50-1602:

- (a) All medications, prescription and non-prescription shall be received from the Parent or guardian by a designated staff person or management-level staff person Staff to administer. An alternate staff person shall be available to administer medication in the event the designated staff person Staff is absent.
- (b) The designated staff person Staff shall document verification of the following:
  1. The Parent's or guardian's written authorization to administer medication and instructions on the methods of administration;
  2. That medicines or drugs are in the original prescription container, are not out of date, and are labeled with the Child's name; and
  3. The specific dosage and times medication is to be administered to the Child.
- (c) The following documentation of administration shall be maintained in the Child's file and a copy provided to the Parent or guardian:
  1. Times medications administered;
  2. Noticeable side effects; and
  3. Name of staff person Staff administering medication to Child.
- (d) The Parent or guardian of a Child receiving medication shall sign documentation verifying the receipt of documentation of administration required by subparagraph (c) above and that all unused medication was returned to the Parent or guardian.
- (e) Medication must~~shall~~ not be handled by children, with the exception of children with a physician's authorization for the self-administration of a medication. Assistance to School-age children self-administering medication must be in accordance with

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Guidelines for Use of Health Care Professionals and Health Care Procedures in a School Setting.

- (f) Medication ~~must~~ never be administered in bottles or ~~infant~~ infant feeders unless authorized by a physician.
- (g) All medicines, ~~prescription~~ prescriptions and non-prescription, ~~must~~ be stored in a locked compartment or container.
  1. If medicine requiring refrigeration is kept in a refrigerator the medicine ~~must~~ be put in a leak-proof locked container.
  2. Keys for these compartments ~~must~~ be inaccessible to children.
  3. Medication requiring emergency administration, as directed by the physician, nurse practitioner or physician's assistant, e.g., "EpiPen," asthma inhaler, etc., may be kept in an unlocked container that is inaccessible to children.
- (h) ~~Public school administered LEA Child Care Programs~~ shall follow the procedures for ~~administering, handling, and storing all~~ student medications ~~as~~ defined in ~~the School's~~ ~~school~~ health policy, adopted by the Local Education Agency ~~and Policy of the State Board's- Administration of Medication in School Setting Policy 4.205.~~

~~(12)~~(15) The following safe sleep practices ~~must~~ be followed:

- (a) Infants shall be positioned on their backs when placed in a crib for sleeping.
- (b) A crib ~~must~~ only have a tight-fitting sheet; soft bedding ~~and inclines~~ for ~~infants~~ are prohibited.
- ~~(c)~~ Infants shall not be wrapped tightly or swaddled in blankets for sleeping.
- ~~(e)~~(d) Infants should be dressed lightly for sleep, and the room temperature ~~must~~ be in a range that is comfortable for a lightly clothed adult. Infants may be clothed in sleep sacks that have been approved by the Consumer Product Safety Commission and the Tennessee Department of Health as long as the sleep sack is not handmade, not on the recall list, and children are able to move their arms freely while wearing the sleep sack.
- ~~(d)~~(e) Infants that fall asleep during tummy time shall be placed in their crib immediately.
- ~~(e)~~(f) Infants shall be touched by a ~~T~~teacher every fifteen (15) minutes ~~in order~~ to check breathing and body temperature ~~and this information must be recorded.~~
- ~~(f)~~(g) Pillows and blankets ~~must~~ be prohibited for ~~infants~~.
- ~~(g)~~(h) If a ~~C~~child appears not to be breathing, the Program ~~shall~~ immediately begin CPR and call for emergency medical assistance.
- ~~(h)~~ ~~Before any teacher can assume duties of any type in an infant room they shall~~ be oriented in the foregoing sudden infant death syndrome (SIDS) procedures.
- (i) The areas where ~~infants~~ sleep ~~must~~ have adequate lighting which allows the ~~T~~teacher to quickly, at a glance, verify that the ~~C~~child's head is uncovered, that the ~~C~~child is breathing, and otherwise visually verify the ~~C~~child's condition.

~~(i)~~

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~~(13)~~(16) For the protection of children and adults, the Centers for Disease Control guidelines for hand washing and diapering procedures mustshall be followed. Hand sanitizer mustshall not be a substitute for soap and water and mustshall be kept out of reach of children.

~~(14)~~(17) Diapering mustshall comply with the following:

- (a) Children shall be diapered and /changed as needed and cleaned immediately when wet or soiled.
- (b) The diapering area and/or toilet training area mustshall be located near a hand washing lavatory and mustshall be located in a separate area from the food preparation/service area.
- (c) All diapering surfaces must be off the floor, and nonporous and mustshall be sanitized using solutions for general cleaning and sanitizing purposes, including:
  1. For general cleaning and sanitizing purposes, a fresh solution of one quarter (1/4) cup chlorine bleach to one (1) gallon of water (or one (1) tablespoon bleach to one (1) quart of water) mustshall be made daily.
  2. Substitutions for the bleach solution required in part 1. above that are approved for the childcare setting by the Department of Health are permissible.
  3. The solution required in part-1. above is not appropriate for items associated with food preparation or for items that children frequently place in their mouths, and the Health Department does not permit the use of higher concentrations than these in food preparation areas. Specific jurisdictions may have even more stringent requirements; therefore, the local health department should be consulted.
- (d) A tightly covered container with plastic liner mustshall be used for diaper disposal and mustshall be inaccessible to children. This container mustshall be emptied by closing the liner and disposing of it in an outside receptacle.

~~(15)~~(18) Program equipment and appliances mustshall meet the following safety requirements:

- (a) Manufacturer's safety instructions mustshall be followed for the use and /or installation of all indoor and outdoor equipment and appliances. Such instructions mustshall be retained and communicated to all appropriate Sstaff.
- (b) All indoor and outdoor equipment mustshall be well-made and safe. There mustshall be no dangerous angles, sharp edges, splinters, nails sticking out, open S-hooks, or pinch points within children's reach.
- (c) Electrical cords on equipment and appliances for children shall be inaccessible to the children.
- (d) Damaged equipment and appliances mustshall be repaired or removed from the room or playground immediately.
- (e) Equipment mustshall be kept clean by washing frequently with soap and water.
- (f) There mustshall be Developmentally Appropriate equipment and furnishings for each age group in attendance.
- ~~(g)~~ Individual lockers, separate hooks, and shelves or other containers, placed at children's reaching level, mustshall be provided for the belongings of each Cchild, ages infant preschool.

~~(g)~~

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- (h) In ~~infant/t~~ toddler rooms, equipment and space ~~must~~ be provided for climbing, crawling, and pulling without the restraint of playpens or cribs.
- (i) A place ~~must~~ be provided for each ~~s~~ school-age child's belongings.
- (j) There ~~must~~ be ~~provisions~~ ~~equipment~~ for napping or sleeping for each ~~P~~ preschool ~~C~~ child who is in care for six (6) hours or more.
  1. A quiet rest area and/or cots or mats ~~must~~ be available for children who want to rest or nap. However, no ~~C~~ child shall be forced to nap.
  2. No ~~C~~ child shall be forced to stay on a cot or on a mat for an extended period of time as determined in Department guidance based on the ~~P~~ program type.
  3. ~~To~~ ~~in order to~~ avoid the spread of airborne diseases, children shall be positioned on mats in a face-to-feet alternating pattern.
  4. Spacing of cots, cribs, and mats ~~must~~ allow sufficient space to walk between them.
  5. All ~~rest~~nap/sleep equipment ~~must~~ be in good condition and comply with the following requirements:
    - (i) Individual cots or two-inch (2") mats ~~must~~ be provided for children ages twelve (12) months to five (5) years.
    - (ii) Individual beds or cots ~~must~~ be provided for children sleeping for extended periods of more than two and one-half (2-1/2) hours, such as during nighttime care.
    - (iii) Each child under twelve (12) months shall have an individual, free-standing, crib at least twenty-two inches (22") ~~by~~ thirty-six inches (36") with an open top.
    - (iv) Mattresses and foam pads ~~must~~ be covered with safe, waterproof material.
    - (v) A clean sheet or towel ~~must~~ be used to cover whatever the ~~C~~ child sleeps on.
    - (vi) A clean coverlet ~~must~~ be available to each ~~C~~ child.
    - (vii) Soiled sheets and coverlets ~~must~~ be replaced immediately.
    - (viii) Each crib, cot, bed, or mat ~~must~~ be labeled to ~~assure~~ ~~promote~~ that each ~~C~~ child naps on ~~his~~ ~~their~~ own bedding.

~~(16)~~ Crib mattresses ~~es~~ ~~must~~ not be positioned directly on the floor for ~~rest~~napping. ~~Pack~~ ~~'n plays may be used for naptime.~~

6.

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~~(17)~~(19) \_\_\_\_\_ All Program ~~s~~Staff, including ~~v~~Volunteers, are individually responsible, and are required by T.C.A. §§ 37-1-403, 37-1-605, and 49-6-1601 to immediately report any knowledge or reasonable cause for suspicion of child abuse or neglect, or child sexual abuse, including, but not limited to, any statement from a Cchild reasonably indicating abuse or neglect of that Cchild or another child or any evidence of abuse or neglect observed on a child, to the Department of Children's Services and law enforcement.

~~(18)~~(20) If the information is received from a Cchild, the following procedures ~~must~~shall be followed:

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- (a) If a Cehild voluntarily discloses information about possible abuse to Program Staff or a ~~v~~olunteer in a Program, then the Cehild shall be provided with a quiet and private place to speak and the person receiving the information shall listen openly and speak at the Cehild's level in a positive, non-judgmental tone.
- (b) The person receiving the information from the Cehild shall:
  1. Allow the Cehild to say what happened in the Cehild's own words;
  2. Avoid conducting an investigation by asking the Cehild detailed questions;
  3. Make every effort to write down the Cehild's exact words;
  4. Refrain from making any statements to the ~~e~~Child about the alleged abuse, the alleged abuser, or the consequences of the Cehild reporting the alleged abuse; and
  5. Immediately notify the Program child abuse coordinator and report the information to the Department of Children's Services and law enforcement, provided, however, when the alleged abuse involves someone employed by, previously employed by, or otherwise affiliated with the Program, the report may be made directly to the Department of Children's Services and law enforcement prior to notifying the Program child abuse coordinator. This requirement does not relieve a Program Teacher, Program official, or other Program personnel from the duty to report alleged abuse under federal law.

~~(19)~~(21) If a third party informs a Program personnel of a reasonable suspicion that a Cehild at the Program may be the victim of child abuse or neglect, or child sexual abuse, then the Program personnel ~~shall~~must:

- (a) Encourage the third party to report the suspicion to the Department of Children's Services and law enforcement;
- (b) Notify the Program's child abuse coordinator; and
- (c) Report all information received from the third party to the Department of Children's Services and law enforcement.

~~(20)~~(22) Each Program shall designate a child abuse coordinator and an alternate child abuse coordinator. The designation of an alternative child abuse coordinator is not required when only one (1) adult is employed by or responsible for the care of children at the Program. The child abuse coordinator and alternative child abuse coordinator ~~shall~~must:

- (a) Have access to an area providing privacy and access to a telephone for reporting suspected child abuse, neglect, and child sexual abuse;
- (b) Receive training as required by T.C.A. § 49-6-1601(c)(2);
- (c) Be available for Program personnel to share information about suspected child abuse, neglect, and child sexual abuse;
- (d) Assist Program personnel in reporting suspected child abuse, neglect, and child sexual abuse to the Department of Children's Services and law enforcement;

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- (e) Serve as a liaison between the Program, the Department of Children's Services, and law enforcement;
- (f) Assist the Department of Children's Services and law enforcement by sharing available information regarding suspected child abuse, neglect, and child sexual abuse, and by providing a private area within the Program for Department of Children's Services and law enforcement personnel to meet with the Child and the reporting Program personnel as a group or individually if required; and
- (g) Maintain confidential files in accordance with T.C.A. §§ 37-5-107 and 37-1-612 regarding all reported suspicions of child abuse, neglect, and child sexual abuse.

~~(21)~~(23) All Program Staff shall receive annual training regarding the procedures to report child abuse, neglect, and child sexual abuse as is required by T.C.A. § 37-1-408.

~~(22)~~(24) The Program shall not attempt to validate the allegation prior to making a report. A final determination of the validity of the report of child abuse or neglect, or child sexual abuse shall be made exclusively by the Department of Children's Services and law enforcement upon the report by the Program's Staff.

— The Program shall not develop or implement policy that inhibits, interferes with or otherwise affects the duty of any Staff, including substitute staff and ~~v~~Volunteers, to report suspected abuse, neglect, or sexual abuse of a eChild as required by t

~~(23)~~(25) ~~T~~This rule and T.C.A. §§ 37-1-403, 37-1-605, and 49-6-1601 and ~~must~~shall not otherwise directly or indirectly require Staff to report to the Program management or child abuse coordinator or seek the approval of Program management or child abuse coordinator prior to any individual staff member reporting the suspected abuse, neglect, or sexual abuse to the Department of Children's Services and law enforcement.

~~(24)~~(26) A report of suspected child abuse or neglect, or sexual abuse of a Child enrolled in the Program by a Program staff member or ~~v~~Volunteer shall not be made to any other entities or persons, including, but not limited to, hospitals, physicians, or educational institutions as an alternative to or substitute for the reporting requirements to the persons or entities specifically listed in this rule.

~~(25)~~(27) A Program staff member or ~~v~~Volunteer shall not suggest to, advise or direct a Parent or caretaker of a Child enrolled in the Program to make a report of suspected child abuse or neglect, or child sexual abuse regarding that Parent's or caretaker's own Child who is enrolled in the Program as a means of fulfilling the duty of the Program staff member or ~~v~~Volunteer to report child abuse or neglect, or child sexual abuse as required by T.C.A. §§ 37-1-403, 37-1-605, and 49-6-1601.

~~(26)~~(28) Program personnel should be observant of any bruising, injury, markings, or other unusual behavior that may be the result of child abuse or neglect, or child sexual abuse, and immediately coordinate with the Program's child abuse coordinator to report any suspicions to the Department of Children's Services and law enforcement. However, photographs of such bruising, injury, or markings ~~must~~shall not be taken by any Program personnel.

~~(27)~~(29) Any action that does not comply in all respects with these rules, will not fulfill the statutory duty to report child abuse or neglect, or child sexual abuse and the certification of approval requirements of this Chapter.

- (a) Failure to make the reports required by this Chapter or the use of prohibited methods as an attempt to fulfill the duty to report suspected child abuse or neglect, or child sexual abuse, for children in the care of the Program are, by themselves, grounds for suspension, denial or revocation of the Program's certificate of approval.

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- (b) If the facts established by a preponderance of the evidence indicate that there has not been strict compliance with the requirements of this ~~Rule Chapter~~ or that the prohibited procedures have been utilized as an alternative means of fulfilling the requirements, these circumstances ~~must~~ create a rebuttable presumption for the Administrative Law Judge and the Child Care Advisory Council Review Board that the duty to report child abuse or neglect, or child sexual abuse, has not been fulfilled, and this ground for suspension, denial, or revocation of the Program's certificate of approval by the Department of Education shall be sustained unless such presumption is rebutted by a preponderance of the evidence.
- (c) All Program ~~S~~staff and ~~v~~Volunteers in a Program ~~certified as~~ approved by the Department of Education shall fully cooperate with all agencies involved in the investigation of child abuse or neglect, or child sexual abuse.
1. The Program shall provide access to records of children and ~~S~~staff.
  2. The Program shall allow appropriate investigators to interview children and ~~S~~staff.
  3. The Program shall not interfere with a child abuse or neglect, or child sexual abuse, investigation.
  4. The Program shall protect the ~~C~~child by requesting the investigator's identification.
  5. The Program shall maintain confidentiality of the investigation and shall not disclose the investigation or details of the investigation except as required to carry out procedures for the protection of children or as otherwise directed by the Department of Children's Services, law enforcement or the Department of Education.
- (d) Upon notification of a pending child abuse or neglect, or child sexual abuse investigation of any Program staff member, the Program shall enter into a safety plan with the Department regarding the individual's access to the Program and the children in the care of the Program.

**Authority:** T.C.A. §§ 37-1-401, et seq.; 37-1-601, et seq.; 49-1-302; 49-1-1101 through 49-1-1109; 49-6-1601; 49-6-5001; and 49-6-5002; and 20 U.S.C. § 6081 *et seq.* **Administrative History:** Original rule filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Amendment filed June 18, 2013; effective November 28, 2013. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019. Amendments filed April 1, 2021; effective June 30, 2021. Amendments filed July 20, 2023; effective October 18, 2023.

#### 0520-~~1201-0426-~~.11 FOOD.

- (1) If the ~~P~~program provides ~~foodmeals~~, the ~~P~~program shall provide ~~D~~developmentally ~~A~~appropriate meals, snacks, and drinks for each ~~C~~child that are of sufficient proportions and nutritional value to meet each ~~C~~child's health needs in accordance with the following minimum requirements:
- (a) For children in the ~~p~~Program ~~agency~~ at least four (4) hours, one (1) snack shall be provided, unless the four (4) hour period covers a normal meal hour, in which case a meal shall be served. However, if the ~~C~~child is fed their meal at home or in school, the ~~C~~child shall be served two (2) snacks in lieu of a meal.

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- (b) Children in care five (5) to six (6) hours shall be provided one (1) meal and one (1) or two (2) snacks. However, if the Cchild is fed their meal at home or in school, the Cchild shall be served two (2) snacks in lieu of a meal.
  - (c) Children in care seven (7) to ten (10) hours shall be provided one (1) meal and ~~one (1)~~ or two (2) snacks.
  - (d) Children in care for longer than ten (10) hours shall be provided two (2) complete meals and one (1) or two (2) snacks.
  - (e) A meal mustshall be provided to children who arrive before 7:00 a.m. and who have not had breakfast at home.
  - ~~(f)~~ Foods high in sugar and/or fat content but containing low nutritional value, mustshall not be served.
  - ~~(g)~~(f) All special needs diets mustshall be prepared as prescribed by a physician or by the written instructions of the Pparent.
  - ~~(h)~~(g) In order for Pparents to be aware of the food their children are receiving, the week's menus mustshall be planned and posted by the first day of each week and remain posted throughout the week. These menus mustshall be followed, although reasonable substitutions are permissible, if the substituted food contains the same nutrients. Any change mustshall be documented in advance of the meal.
  - ~~(i)~~(h) Food mustshall not be forced on or withheld from children.
  - ~~(j)~~(i) Programs shall must establish a feeding schedule for Iinfants.
  - ~~(k)~~(j) Bottled breast milk, Iinfant bottles, and formula must shall not be heated in a microwave.
  - ~~(l)~~(k) Infants shall must be held while bottle feeding.
  - ~~(m)~~(l) Children shall not be permitted to carry a bottle with them throughout the day.
- (2) The following rules mustshall be followed for meal service:
- (a) ~~Staff Teachers~~ and children shall wash their hands with soap and water.
  - (b) High chairs and tables on which food is prepared and served mustshall be washed with soap and water and sanitized prior to and after snacks and meals.
  - (c) Floors under tables and high chairs on which food is served mustshall be swept and/or vacuumed after each meal and cleaned as needed.
  - (d) Solid foods, ~~(including cereal, )~~ mustshall not be given in bottles or with Iinfant feeders to children with normal eating abilities unless authorized by a physician. ~~Violation of this rule may result in suspension, revocation, or denial of the agency's program's ability under its certificate of approval to provide infant care.~~
  - ~~(e)~~(e) To avoid choking, foods mustshall be appropriately sized for the eating and chewing abilities of children.
  - ~~(f)~~(f) At mealtime, children shall be seated at appropriately sized tables and chairs, and adults shall supervise them.
  - ~~(g)~~(g)

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- (3) The following guidelines ~~must~~ be followed for formula and food brought from home:
  - (a) All formulas and food brought from home ~~must~~ be labeled with the ~~C~~child's name.
  - (b) Milk ~~must~~ be placed immediately in the refrigerator.
  - (c) Once milk has been warmed, it ~~must~~ not be re-warmed or returned to the refrigerator.
  - (d) For optimum digestion, formula is to be served at body temperature.
  - (e) Frozen breast milk ~~must~~ be dated when expressed.
  - (f) All formulas remaining in bottles after feeding ~~must~~ be discarded.
  - (g) Previously opened baby food jars ~~must~~ not be accepted in the center. If food is fed directly from the jar by the ~~T~~eacher, the jar ~~must~~ be used for only one feeding.
- (4) Microwaves, bottle warmers, and crock pots ~~must~~ be only used by adults and ~~must~~ not be accessible to children. All devices ~~must~~ be used on the lowest setting. Children shall not be held while removing a bottle from crock pot or warming device.
- (5) Infants shall be held while being fed as long as they are unable to sit in a high chair, an ~~i~~nfant seat, or at the table.
- (6) Children shall always be restrained in the high chair manufacturer's restraint device while sitting in a high chair. Children who are too small or are too large to be restrained using the manufacturer's restraint device shall not be placed in a high chair.
- (7) When children are capable of using a high chair, they shall be allowed to do so and to experiment with food, with feeding themselves, and to eat with fingers or ~~a~~ spoon.
- (8) Children shall never be left without adult supervision while eating.
- (9) The following rules for food storage ~~must~~ be followed:
  - (a) Potentially hazardous foods requiring cold storage ~~must~~ be maintained at forty-five (45) degrees Fahrenheit (F) or below, and accurate thermometers for measurement of the food temperature ~~must~~ be kept in the refrigerators where such food is stored.
  - (b) Potentially hazardous food requiring hot storage ~~must~~ be maintained at an internal temperature of one hundred forty (140) degrees F or above.
  - (c) Frozen foods ~~must~~ be maintained at a temperature of zero (0) degrees F or below.
  - (d) Thermometers ~~must~~ be placed ~~or available~~ in all freezers and all other cold storage equipment.
  - (e) All dry food supplies ~~must~~ be stored in closed containers. These foods ~~must~~ be stored in a manner to prevent possible contamination and to allow for proper cleaning of the storage area. Containers of food ~~must~~ be stored at a minimum of six (6) inches above the floor or on movable dollies.
  - (f) All food ~~must~~ be protected from contamination during storage, preparation, transportation, and serving.
  - (g) No poisonous or toxic materials except those required for sanitization purposes may be used or stored in a food-service area of a facility.

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- (10) The following rules for food sanitation ~~must~~ shall be followed:
- (a) Raw fruits and vegetables ~~must~~ shall be washed before use.
  - (b) Utensils ~~must~~ shall be thoroughly cleaned and sanitized after each use. Single-service utensils ~~must~~ shall be made from non-toxic materials and ~~must~~ shall be discarded following use.
  - (c) Milk/~~formula~~ and food ~~must~~ shall not be placed on the table longer than fifteen (15) minutes prior to the beginning of the meal to avoid contamination and spoilage.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 49-1-302(~~it~~); and 49-1-1101 through 49-1-1109. **Administrative History:** Original rule filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

### 0520-~~1201-0426~~-12 PHYSICAL FACILITIES.

- ~~(1)~~ Physical facilities ~~must~~ shall maintain compliance with all applicable health and safety codes throughout the certification year and ~~must~~ shall additionally comply with any updated standards issued by the Fire Marshal and the Department of Health.
- ~~(1)~~ \_\_\_\_\_
- ~~(2)~~ All facilities ~~must~~ shall have a means of communications via phone.
- ~~(2)~~ \_\_\_\_\_
- ~~(3)~~ All facilities ~~must~~ shall have internal plumbing ~~running water~~.
- ~~(3)~~ \_\_\_\_\_
- (4) The maximum number of children who may be present inside a physical space (e.g., the ~~P~~program's "certificated capacity") shall be determined in accordance with the minimum square footages set forth in this paragraph; provided, however, the Department may, in its discretion as determined reasonably necessary to maintain the health and safety of the children in care, restrict the ~~P~~program's certificated capacity below the maximum which is set forth in these rules.
  - (a) A minimum of thirty (30) square feet of usable indoor space ~~must~~ shall be provided for each ~~C~~child.
  - (b) Career and technical ~~early C~~child ~~C~~care classes shall have separate space for the ~~G~~group of young children, with thirty (30) square feet per ~~C~~child of usable space, apart from the ~~classroom-Program~~ space for students.
  - (c) For the purposes of calculating square footage requirements:
    1. Usable space to be included in the square footage calculation includes:
      - (i) Book shelves used in centers or reading nooks;
      - (ii) Children's tables (centers, sand and water, etc.);
      - (iii) Shelving used to house toys, blocks, manipulatives, etc.; and
      - (iv) Other items that are used to enhance a ~~C~~child's learning space.
    2. Non-usable space that ~~must~~ shall not be included in the square footage calculation includes:

(Rule 0520-~~12-0101-0126~~-11,

- (i) StaffTeacher's desk;
- (ii) StaffTeacher's file cabinet;

(Rule 0520-~~1201-0426~~-12,

- (iii) Cubbies;
  - (iv) Cot or mat racks;
  - (v) Diapering tables;
  - (vi) Cribs;
  - (vii) Restrooms;
  - (viii) Halls;
  - (ix) Kitchen; and
  - (x) Office space.
- (d) Rooms with sufficient floor space, as defined by the requirements set forth in these rules, may be divided and used for more than one (1) Ggroup; provided, however, that each area is adequately equipped and arranged and that each Ggroup shall have the security of a stable classroom-Program space.
- (5) All indoor areas mustshall be clean and safe.
- (a) The indoor play and /care areas mustshall be free of hazardous items that could be accessible to children.
- (b) Indoor play equipment mustshall meet the following guidelines:
1. Pieces of equipment, such as television sets, bookcases, and appliances, mustshall be secured or supported so that they will not fall or tip over.
  2. Sufficient indoor equipment, materials, and toys mustshall be available to meet active and quiet play needs of all children enrolled and to provide a variety of Developmentally Appropriate activities so that each Child has at least three (3) choices during play time.
  3. Toys, educational and play materials, mustshall be organized and displayed within children's reach so —children can that they can— select and return items independently.
  4. Toys or teaching aids that are small or that have small parts that can be inhaled or swallowed mustshall be inaccessible to Infants and Toddlers.
- (6) Outdoor play areas mustshall contain a minimum of fifty (50) square feet of usable play space for each Child using the area at one time.
- (a) The outdoor play area must be enclosed by a fence or barricade at least four (4) feet in height. The Department may in at its discretion grant a waiver from this provision when the Department determines that the lack of such fence or barricade poses no apparent or potential risk to children.
- (b) Outdoor play equipment mustshall meet the following guidelines:
- ~~4.~~ There mustshall be Developmentally Appropriate outdoor play equipment for children who are in care more than three (3) daylight hours.
  - 1.

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2.

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- ~~3.~~ All outdoor play equipment and materials ~~must~~ be sufficient in amount and variety so that children have an opportunity to participate in a minimum of at least three different types of play using either stationary equipment and/or portable play materials.

~~2.~~

- ~~4.~~ All outdoor play equipment ~~must~~ be placed to avoid injury ~~and include~~ :

~~5.~~

- ~~6.3.~~ Fall zones ~~that shall~~ extend six (6) feet away from the perimeter of climbing equipment and away from retainer structures, fences, and other equipment and out of children's traffic paths.

~~(i)~~ ~~Playgrounds at Programs Agencies with a playground~~ continually certified as approved since prior to January 1, 2002, ~~must~~ be permitted to maintain fall zones of at least four

~~(3)~~ feet; provided, however, that any expansion or addition ~~must~~ comply with the six (6) feet fall zone required by part (i) above.

~~(i)~~

(ii) Supports for climbers, swings, and other heavy equipment that could cause injury if toppled ~~must~~ be securely anchored to the ground, even if the equipment is designed to be portable.

(iii) Portable equipment ~~must~~ otherwise be anchored to the ground if the height and weight of the equipment exceeds the height and weight of the smallest ~~C~~child who will use the equipment.

(iv) An acceptable resilient surfacing material, as recognized by the Department, ~~must~~ cover fall zones in accordance with the following:

Resilient Surfacing Material	Minimum Acceptable Depth
Wood chips or mulch	Six (6) inches
Double shredded bark	Six (6) inches
Pea gravel	Six (6) inches
Medium gravel	Eight (8) inches
Fine sand	Eight (8) inches
Co <del>a</del> arse sand	Eight (8) inches
Artificial (manufactured) surface	Manufacturer recommendation

- (c) The outdoor areas where children play or are cared for ~~must~~ be properly maintained and a written playground maintenance plan ~~must~~ be prepared by the ~~P~~program to address routine, remedial, and preventive maintenance and to designate who is responsible for each maintenance need.
- (d) A pre-play ~~and~~ care inspection of the outdoor play area ~~must~~ be completed by the ~~P~~program before children play outdoors.
- (e) The outdoor play ~~and~~ care areas ~~must~~ be free of hazardous items that could be accessible to children.
- (f) Outdoor areas ~~must~~ be free of all animal waste.

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- (7) Drinking water from individual single service cups or an approved drinking fountain ~~must~~shall be provided in all occupied rooms.

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- (8) All garbage ~~must~~ shall be removed from the building daily, and all garbage storage receptacles ~~must~~ shall ~~must~~ be outside and kept closed with tight-fitting lids. The area surrounding the garbage containers ~~must~~ shall be kept clean.
- (9) The building ~~must~~ shall be kept clean and maintained in good repair, without unsafe cracks, leaks, or unsatisfactory plumbing.
- (10) Adequate natural and/or artificial lighting ~~must~~ shall be provided throughout the facility.
- (11) All rooms used by children ~~must~~ shall be maintained at a temperature of between sixty-eight (68) ~~and to~~ seventy-eight (78) degrees Fahrenheit by means of heating, cooling, or ventilation sources approved for use.
- (12) Stoves, hot radiators, steam and hot water pipes, fans, or other heat generating equipment ~~must~~ shall be adequately protected by screens, guards, insulation, or suitable measures that will protect children from coming ~~into~~ contact with them.
- (13) Broken glass, trash, and debris ~~must~~ shall be kept removed from the building and grounds.
- (14) Swimming pools and/or wading pools ~~must~~ shall be fenced and ~~must~~ shall not be used without prior approval by the Department of Health.
- (15) Grounds, tire swings, and containers ~~must~~ shall have adequate drainage to prevent standing water that can breed mosquitoes and other insects.
- (16) If animals or birds are kept in ~~classrooms-Programs~~ as pets, they ~~must~~ shall be caged away from the food storage and preparation or service area, and cages ~~must be~~ kept clean.
- (17) ~~Reptiles and amphibians are prohibited as classroomProgram pets. Turtles are prohibited as classroom pets.~~

**Authority:** T.C.A. §§ 4-5-201, et seq.; 49-1-202; 49-1-302(i); and 49-1-1101 through 49-1-1109.

**Administrative History:** Original rule filed April 30, 2002; effective July 14, 2002. Amendment filed September 6, 2007; effective January 28, 2008. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

### 0520-~~1201-0126~~-13 TRANSPORTATION.

- (1) If a ~~P~~program provides transportation or contracts for transportation, the ~~p~~Program's management shall be fully responsible for all transportation of children, including between home and ~~P~~program, ~~(if different facility from school),~~ to and from school, and on field trips.
- (2) Transportation services shall be operated in compliance with all state laws, regarding school transportation and all rules and regulations, promulgated by ~~the~~ State Board of Education regarding school transportation and school buses.
- (3) Vehicles used to transport children and ~~that~~ which are owned or operated by, contracted for or ~~that~~ which are otherwise under the direction or control of the ~~school-administered-P~~program, shall carry automobile liability insurance coverage for each vehicle used for that purpose in the minimum amounts required by T.C.A. § 49-6-2111 and defined in State Board of Education Pupil Transportation Rule 0520-01-05-.01(2).
  - (a) Automobile insurance coverage for ~~n~~Non-school, ~~C~~community-based ~~O~~organizations which transport children shall comply with the following:

1. Automobile liability coverage ~~must~~ shall be maintained in a minimum amount of five hundred thousand dollars (\$500,000) combined single limit of liability.
  2. Medical payment coverage ~~must~~ shall be maintained in the minimum amount of five thousand dollars (\$5,000) for injuries to children being transported in vehicles owned, operated or leased by the Non-School, Community-based Organization's Program.
- (4) Vehicles used to transport children — must be in compliance with the Federal Motor Vehicle Safety Standards as defined by Title 49 part 571 of the Code of Federal Regulations and the Tennessee Minimum School Bus Standards, adopted by the State Board of Education as required by Rule 0520-01-05-.02.
  - (5) Fifteen (15) passenger vans are prohibited.
  - (6) Children may be transported in passenger vehicles, however, ~~passenger vehicles they children of all ages but~~ shall ~~must~~ be in compliance with passenger restraint laws, pursuant to T.C.A. § 55-9-602 ~~at all times in passenger vehicles,~~ and children shall ~~must~~ be transported in rear seats.
    - (a) Any Child under one (1) year of age ~~and or any child~~ weighing twenty pounds (20 lbs.) or less shall be properly secured in a Child passenger restraint system in a rear facing position.
    - (b) Any Child, one (1) through three (3) years of age, and weighing greater than twenty pounds (20 lbs.) shall be properly secured in a Child passenger restraint system in a forward-—facing position.
    - (c) Any Child, four (4) through eight (8) years of age and measuring less than four feet, nine inches in height shall be properly secured in a Child seat or a belt-positioning booster seat.
    - (d) Any Child, nine (9) through twelve (12) years of age, measuring four feet, nine inches or more in height, shall be properly secured in a passenger motor vehicle using a seat belt system in the rear seat of the vehicle.
    - (e) Any Child, thirteen (13) through fifteen (15) years of age, shall be properly secured in a passenger motor vehicle using a seat belt system.
  - (7) Federally approved Child care restraint systems must be provided and utilized during the transport of any eChild three (3) years of age or under on a school bus.
  - (8) No Child shall be allowed to ride on the floor of a vehicle, and no Child shall be placed with another Child in the same restraint device.
  - (9) All school buses ~~must~~ shall be inspected in compliance with the Rules and Regulations for School Bus Inspection, Chapter 1340-03-03, promulgated by and regulated by the Tennessee Department of Safety.
  - (10) All persons hired for the position of "school bus driver" shall:
    - (a) Be issued a commercial driver's license (CDL) by the Tennessee Department of Safety;
    - (b) Have the "S" and "P" endorsements if employed by a public school or school system;

~~(b)~~—

- (c) Have a "P" endorsement and completion of school bus driver training if employed by a nonpublic school or a Non-school, Community-based Organization;
  - (d) Know and understand the school system's or private school's policies and procedures concerning transportation and the bus driver's responsibilities and duties;
  - (e) Have no criminal offense or criminal record of a violation of any of the following:
    - 1. Driving under the influence of an intoxicant as prohibited by T.C.A. § 55-10401;
    - 2. Vehicular assault as prohibited by T.C.A. § 39-13-106;
    - 3. Vehicular homicide as prohibited by T.C.A. § 39-13-213(a)(2);
    - 4. Aggravated vehicular homicide as prohibited by T.C.A. § 39-13-218; or
    - 5. Manufacture, delivery, sale or possession of a controlled substance as prohibited by T.C.A. § 39-17-417;
  - (f) Complete the annual physical and mental examinations of school bus drivers as required by T.C.A. § 49-6-2108;
  - (g) Complete the annual training for school bus drivers presented by the Tennessee Department of Safety (school bus driver training is not required for drivers of passenger vehicles only); and
  - (h) Complete CPR and First Aid certifications. If driver is accompanied by regular Staff that has certification in CPR and First Aid, the driver does not have to meet this requirement.
- (11) Drivers of any passenger vehicle, used to transport children, shall possess a current, valid driver's license and endorsement required by the Tennessee Department of Safety for transporting children in the applicable type of vehicle.
- (12) Seating capacity on a school bus mustshall be in compliance with T.C.A. § 49-6-2110(a), requiring a minimum of thirteen linear inches of seat space for each student.
- (13) Vehicles used for transporting children shall:
- (a) Have a clearly visible identifying sign. Exceptions: Vehicles used exclusively for the occasional field trip; vehicles used exclusively for the limited provision of emergency transportation, e.g., vehicle used when regular vehicle has a mechanical breakdown; and The Department may waive the vehicle identification requirements for Programs under the direction or control of a local education agency.~~public agency.~~
  - (b) Have fire extinguishers, emergency reflective triangles, a first aid kit, and a blood-borne pathogenic clean-up kit, and an adult familiar with the use of this equipment on board. Emergency exiting procedures mustshall be practiced by all Staff responsible for transporting children on a regular basis. ~~(Not applicable to occasional transportation by volunteers).~~ All items must be secured.
- (14) Transportation routes mustshall be ~~(school bus routes)~~ in compliance with T.C.A. § 49-6-2105 to ensure no eChild is on a school bus more than one and one-half (1½) hours in the morning and one and one-half (1½) hours in the afternoon.
- (15) Firearms are prohibited in vehicles used to transport children.

(16) Supervision of children in vehicles shall meet the following requirements:

- (a) An adult ~~shall~~must be in the vehicle whenever a Cchild is in the vehicle.
- (b) An adult ~~shall~~must be seated behind the steering wheel if the motor is running, and children are being loaded and/or are on board.
- (c) Transportation of children with ~~special needs~~disabilities ~~must~~shall be in compliance with the Individualized Education Program~~lan~~ (IEP) or Section 504 Plan for each Cchild.
- (d) Adult Monitor Requirements.
  1. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more children ages six (6) weeks to four (4) years of age.
  2. An adult monitor, in addition to the driver, is required on the vehicle for all routes exceeding thirty (30) minutes for children ages six (6) weeks to four (4) years of age, regardless of the total number of children being transported.
  3. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more non-ambulatory children (permanently or temporarily non-ambulatory) of any age.
  4. An adult monitor, in addition to the driver, is required if more than ten (10) Voluntary Pre-~~K~~Kindergarten students four (4) years of age are transported on the same bus.
  5. An adult monitor shall not be seated in the front passenger seat, but shall be seated in the vehicle in a position which will allow:
    - (i) Each Cchild to be seen with a quick glance;
    - (ii) Each Cchild to be heard at all times;
    - (iii) Each Cchild's activities to be observed; and
    - (iv) The monitor to respond immediately should there be an emergency.

(17) A passenger log ~~must~~shall be used to track each Cchild during transportation of children.

~~(17)~~

- (a) The first and last name of each Cchild received for transport shall be recorded on the passenger log. A sibling Ggroup shall not be listed as a single Ggroup entry ~~(e.g., for example,~~ "Smith children".

~~(b)~~

- ~~(c)~~(b) The driver of the vehicle or the monitor shall be designated as the person responsible for completing the log.

- ~~(d)~~(c) As each Cchild is loaded onto the vehicle the time the Cchild was placed on the vehicle shall be recorded on the passenger log.

- (d) The passenger log ~~must~~shall be updated immediately upon the Cchild being released from the vehicle. The time the Cchild was released ~~must~~shall be recorded and initialed by the person responsible for completing the log.

~~(e)~~

- (18) All drivers shall comply with the following:
- (a) Bus drivers who do not return to a central depot shall check at the end of every run to make sure that no person remains on the bus as defined in T.C.A. § 49-6-2114. Immediately upon unloading the last Cehild the driver shall:
    1. Physically walk through the vehicle;
    2. Inspect all seat surfaces, under all seats, and in all compartments or recesses in the vehicle's interior;
    3. Sign the log, with the driver's full name, indicating the children are all unloaded.
  - (b) If a Cehild is expected for transport (based on the roster) but is not present at the location, the driver may not leave the location without checking with a designated member of ~~s~~Staff and the center. If the designated member of staff is not present in the loading area and there is not an additional adult on the vehicle, all children will accompany the driver into the facility to verify the whereabouts of the Cehild.
  - (c) When ~~Pre-Kindergarten~~ children are transported on the return route, the school bus driver ~~shall~~ must not leave a Pre-K Cehild at the Cehild's home or bus stop unless the Pparent or other authorized person is present. If the Pparent or other authorized person is not present, the Cehild ~~Pre-K student~~ is not to exit the bus, and the school bus driver is to follow the process/policy developed by the school system in collaboration with the Department of Children's Services and/or the police or sheriff's office.
- (19) All Pprograms providing transportation ~~for child care~~ ~~must~~ shall provide an annual written statement to the Department:
- (a) Stating the type(s) of transportation offered, e.g. transportation to and/or from school, transportation to and/or from Cehild Care Pprogram, transportation to and/or from Cehild's home, etc.;
  - (b) Listing and describing the vehicles that will be used for the transportation of children;
  - (c) Describing any contracts, agreements or arrangements with any third (3rd) parties for the provision of transportation services, with copies of such contracts or agreements or arrangements available upon the Department's request;
  - (d) Describing the Program agency's policy, procedures and Staff training plans for maintaining compliance with responsibilities for loading and unloading and tracking each Cehild;
  - (e) Describing the Program agency's management plan for ensuring all transportation Staff properly perform their duties in accordance with ~~these~~ licensing rules and Program agency policies and procedures;
  - (f) Describing the Program agency's policy, procedures and ~~s~~Staff transportation training plans for maintaining compliance with transportation rules and state law; and
  - (g) Describing the Program agency's policy, procedures and Staff training plans for the emergency evacuation of the vehicle.
- (20) Non-school, Community-based Organization vehicles ~~must~~ shall meet the following requirements:
- (a) Annually, all ~~n~~Non-school, Community-based Organization's vehicles that are designed by the vehicle manufacturer to carry ten (10) or more passengers ~~must~~ shall

be inspected in

accordance with the schedule established by the Department of Safety. Any maintenance or repair to the vehicles disclosed by the inspections must be the sole responsibility of the Non-school, Community-based Organization.

(b) The Non-school, Community-based Organization's vehicle may have a stop arm in accordance with T.C.A. § 55-8-151(d) if the bus driver has completed annual school bus driver training provided by the Department of Safety.

~~(c) The non-school, community-based organization's vehicle with a stop arm is required to be distinctly marked "Youth Bus" on the front and rear thereof in letters not less than six inches (6") in height and legibly written.~~

~~(d)~~(c) No vehicle which does not pass the inspections required in part (a) must be used by the Non-school, Community-based Organization to provide transportation services until necessary repairs, as determined by Department of Safety, have been made.

~~(e)~~(d) Non-school, Community-based Organization vehicles must receive regular inspections and maintenance by a certified mechanic in accordance with the maintenance schedule recommended by the vehicle manufacturer.

~~(f)~~(e) Vehicle equipment must be certified as inspected at least every four thousand (4,000) miles, if not covered by and/or otherwise serviced in accordance with the manufacturer's maintenance schedule, including: brakes; steering; oil levels; coolant; brake, windshield-washer and transmission fluids; hoses and belts; and tires.

~~(g)~~(f) The following equipment must be maintained in the vehicle and stored in a manner which is not readily accessible to children: fire extinguisher; emergency reflective triangles; first aid kit; blood-borne pathogenic clean-up kit; and seat-belt cutter or similar device designed to immediately release the vehicle's child restraint system(s) in an emergency.

~~(h)~~(g) The bus driver or transportation monitor assigned to the vehicle shall be familiar with the location and use of all equipment required under part (g).

~~(i)~~(h) The Non-school, Community-based Organization shall maintain documentation that the following daily inspections have been performed and any necessary repairs completed, or other appropriate action taken before transporting children.

1. A visual inspection of the vehicle's tires for wear and adequate pressure;
2. A visual inspection for working headlights and taillights (brake lights and back-up lights), signals, mirrors, wiper blades and dash gauges;
3. An inspection of properly functioning Child and driver safety restraints;
4. An inspection for properly functioning doors and windows;
5. An inspection for the presence of safety equipment required by these rules or any other provisions of law or regulations, and repair or replacement as necessary based upon visual evidence of the need to do so;
6. A determination that the vehicle has adequate fuel; and
7. An inspection for, and cleaning of, debris from the vehicle's interior.

~~7.~~

~~(j)(i)~~ Emergency exiting procedures ~~must~~ shall be practiced on a regular basis by all staff responsible for transporting children.

~~(k)(j)~~ Any vehicle, contracted by a ~~N~~non-school, ~~C~~community-based ~~O~~rganization for the purposes of transporting children in a ~~P~~rogram administered by a ~~N~~non-school, ~~C~~community-based ~~e~~Organization, shall be a for hire commercial passenger vehicle properly registered with the Federal Motor Carrier Safety Administration.

~~(h)(k)~~ The contracted vehicle ~~must~~ shall have a commercial license plate (tag) and ~~must~~ shall have minimum levels of liability insurance as defined by the Federal Motor Carrier Safety Administration rule § 387.33.

1. Any vehicle with seating capacity of sixteen (16) passengers or more ~~must~~ shall have five million dollars (\$5,000,000) liability coverage.
2. Any vehicle with seating capacity of fifteen (15) passengers or less ~~must~~ shall have one and one-half million dollars (\$1,500,000) liability coverage.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 49-1-302(i); 49-6-2101 through 49-6-2117; 55-8-151; 55-9-602; 55-10-401; and 55-50-101, et seq. **Administrative History:** Original rule filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Emergency rule filed August 30, 2010; effective through February 26, 2011. Emergency rule expired on February 27, 2011, and the rule reverted to its previous status. Repeal and new rule filed December 21, 2010; effective March 21, 2011. Amendment filed September 29, 2011; effective February 28, 2012. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

#### 0520-~~4201-0426~~-14 CARE OF CHILDREN WITH ~~SPECIAL NEEDS~~DISABILITIES.

- (1) ~~Programs shall comply with applicable state and federal law, including Section 504 of the Rehabilitation Act of 1973, to ensure When children with disabilities special needs are enrolled in a School administered child care pProgram, all reasonable and appropriate efforts shall be made to provide these children with disabilities have~~ equal opportunity to participate in the ~~same Pprogram activities~~ as their ~~non-disabled~~ peers.
- (2) Parents or other appropriate individual identified by the ~~P~~parent shall provide information and, as appropriate, training to ~~T~~eachers regarding special needs/techniques/emergency measures, as utilized in the ~~C~~child's home to ensure the ~~C~~child's well-being.
- (3) Adaptations to the environment ~~must~~ shall be directed toward normalizing the lifestyle of the ~~C~~child with a disability by helping him/her become independent and develop self-help skills.
- (4) Behavior management techniques or ~~P~~program activities which would ~~tend to~~ demean or isolate the ~~C~~child are prohibited.
- (5) The ~~P~~program shall inform ~~P~~parents of any specialized services available from the ~~P~~program, and if the ~~P~~program is aware of any specialized services available through third parties, shall additionally inform the ~~P~~parent of such services.
- (6) Efforts to provide specialized service (e.g., speech/hearing therapy, physical therapy, psychological evaluation, or services for intellectual disability) either directly or by referral, shall be conducted only with written permission by the ~~P~~parent in accordance with the Individual Family Service Plan (IFSP), ~~or~~ Individual Education Plan (IEP), ~~or~~ Section 504 Plan and documented in the ~~C~~child's record. Any information exchange regarding these services that is shared with or received from third parties shall also be documented.
- (7) The ~~P~~program shall have written individualized emergency plans for each ~~C~~child with a disability who requires more assistance in emergencies than other children of the same age or

in the

same gGroup. The Program shall maintain documentation that the Emergency Plan is practiced monthly.

- (8) Each non-verbal Child's daily activities, including, as applicable to the individual Child, the time and amount of feeding, elimination, times of diaper changes, sleep patterns, and developmental progress, mustshall be recorded and shared with the Parent(s) daily.
- (9) Diapering of School-age children with special needs mustshall be completed as follows:
  - (a) Children shall be changed in a location designated for that purpose and which provides privacy from other children and adults.
  - (b) School-age children may be diapered on the floor on a nonporous washable, surface that adequately protects the floor from contamination.
  - (c) The floor beneath the diapering surface mustshall be immediately cleaned after each diapering.
  - (d) The diapering area mustshall be located near a hand washing lavatory. This area mustshall be in a separate location from the food preparation or /service area.
- (10) Isolation and physical restraint mustshall be in accordance with T.C.A. §§ 49-10-1301-1305 and [State Board Rule 0520-01-09](#).
  - ~~(a) — A student receiving special education services, as defined by T.C.A. § 49-10-102(4), may be isolated or restrained only in emergency situations and only if such isolation or restraint is provided in the student's IEP in emergency situations.~~
  - ~~(b) — If school personnel impose restraints or isolation in an emergency situation, the school shall immediately contact the appropriate school personnel designated to authorize isolation or restraint. The student's parent or guardian shall be notified, orally or by written communication, the same day the isolation or restraint was used.~~
  - ~~(c) — If the student's individualized education program does not provide for the use of isolation or restraint for the behavior precipitating such action or if school personnel are required to use isolation or restraint longer than five (5) minutes, then an individual education program meeting shall be convened within ten (10) days following the use of such isolation or restraint. If the behavior precipitating such action also warrants a change of placement, the child will have all rights provided under applicable state and federal law.~~
  - ~~(d) — School personnel who must isolate or restrain a student receiving special education services, as defined by T.C.A. § 49-10-102(4), whether or not such isolation or restraint was in an emergency situation or provided for in the student's individual education program, shall report the incident to the appropriate school personnel designated to authorize isolation or restraint who shall record the use of such isolation or restraint and the facts surrounding such use. A copy of such record shall be made available at individual education program meetings and upon the request of the student's parent or legal guardian.~~
- ~~(11) — If the appropriate school personnel designated to authorize isolation or any person having knowledge of the isolation or restraint, have reason to believe that such isolation or restraint was unreasonable, unsafe, or unwarranted, and such isolation or restraint caused injury to the student, the incident mustshall be reported pursuant to T.C.A. (a)(11) § 37-1-403.~~

- ~~(b) School personnel shall remain in the physical presence of any restrained student and shall continuously observe a student who is in isolation or being restrained to monitor the health and well-being of such student.~~
- ~~(c) Administering a chemical restraint to a student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited, provided that nothing in this subsection shall prohibit the administration of a chemical restraint when administered for therapeutic purposes under the direction of a physician and with the child's parent or guardian's consent to administer such chemical restraint.~~
- ~~(d) Administering a noxious substance to a student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.~~
- ~~(e) Use of any mechanical restraint on any student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.~~
- ~~(f) Any form of life threatening restraint, including restraint that restricts the flow of air into a person's lungs, whether by chest compression or any other means, to a student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.~~
- ~~(g) The use of isolation or physical holding restraint as a means of coercion, punishment, convenience or retaliation on any student receiving special education services, as defined by T.C.A. § 49-10-102(4), is prohibited.~~
- ~~(h) The use of physical holding restraint in the following circumstances is not prohibited:~~
- ~~1. The brief holding by an adult in order to calm or comfort;~~
  - ~~2. The minimum contact necessary to physically escort a student from one area to another;~~
  - ~~3. Assisting a student in completing a task or response if the student does not resist, or resistance is minimal in intensity or duration; or~~
  - ~~4. Holding a student for a brief time in order to prevent any impulsive behavior that threatens the student's immediate safety.~~
  - ~~5. The program is not required to notify the student's parent or guardian pursuant to this Chapter in any of the circumstances listed in this subdivision (l).~~
- ~~(i) The use of a locked door, or use of any physical structure that substantially accomplishes the intent of locking a student in a room or structure, to isolate or seclude a student, is prohibited.~~

**Authority:** T.C.A. §§ 4-5-201, et seq.; 37-1-403; 49-1-302(i); 49-1-1101 through 49-1-1109; 49-10-102; and 49-10-1301 through 1306. **Administrative History:** Original rule filed March 1, 2005; effective July 29, 2005. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

#### **0520-~~4201-0426~~-15 SCHOOL-AGE BEFORE AND AFTER SCHOOL PROGRAMS.**

~~(28) All before and after school programs shall have an adequate budget.~~

~~(29)(1) Records must be kept on all Sschool-age students-children enrolled in each Pprogram.~~

~~(30)~~(2) Each Pprogram shall post their Aannual Ccertificate of Aapproval and provide Pparents with a copy of the policies and procedures.

~~(34)~~(3) Parents shall have access to all areas of the Pprogram when the student is present.

~~(32)~~(4) Immediate access to all areas of the school or Pprogram shall be granted to all Department representatives and other inspection authorities (i.e., fire safety, sanitation, health, etc.) during operating hours.

~~(33)~~(5) Any Pprogram found in operation without oversight approval from the Department of Education will be reported to local authorities as indicated by T.C.A. § 49-1-1105(a).

~~(34)~~(6) If the Pprogram provides transportation, the transportation ~~must~~shall be in accordance with the Rrules of this Chapter.

~~(35)~~(7) Staff.

~~(a)~~a. Each Pprogram shall have a Ddirector responsible for the day to day operations, including Sstaff and Pprogram.

1. The Ddirector shall be at least twenty-one (21) years of age and shall have at least a high school diploma or high school equivalency credential approved by the State Board and four (4) years' experience working with Sschool-age ~~students~~children.

~~i.~~

2.ii. Directors shall have eighteen (18) hours of in-service training each year.

3.iii. A person shall be designated to serve as acting Ddirector when the Ddirector is absent.

~~(b)~~b. All Sstaff shall be a minimum of eighteen (18) years of age and one (1) staff member in each Ggroup shall have a high school diploma or high school equivalency credential approved by the State Board.

1.i. High school students in grade twelve (12) may work in before or after school Pprograms but shall not count in ratios and shall not be left alone with children.

2.ii. All Sstaff shall have twelve (12) hours of in-service training each year.

~~(c)~~c. All Sstaff shall be physically, mentally, and emotionally stable and shall have knowledge of school-age behavior and development.

~~(d)~~d. All new employees shall have orientation and training on the following prior to assuming duties:

1.i. Abusive head trauma;

2.ii. Emergency preparedness;

3.iii. Health and safety;

4.iv. Developmentally Aappropriate Ppractice;

5.v. Effective afterschool programming;

vi. Supervision;

6.

7.vii. Parent communication; and

8.viii. Any additional training identified by the Department.

~~(e)~~e. Staff shall ~~be in compliance~~ with all ~~criminal~~ history background checks required under 0520-0842-01-.07.

~~(f)~~f. Program ~~v~~Volunteers shall complete ~~criminal history~~ background checks and appropriate in-service training.

~~(g)~~g. Staff records ~~must~~shall be maintained for each employee with the following: educational background, reference checks, ~~TBI~~ background check, in-service training, physical exams and reviews.

~~(36)~~(8) Each grouping of children shall have adult supervision and shall meet the following minimum staffing requirements:

~~(a)~~a. Minimum staffing requirements per ~~G~~group:

Age	Max. Group Size	Adult:Child Ratio
Elementary School	No Max	1:20
Middle School	No Max	1:30
High School	No Max	1:30

~~(b)~~b. Swimming and field trips require ratios be doubled.

~~(37)~~(9) All ~~P~~program equipment ~~must~~shall be in good condition and kept clean.

~~(38)~~(10) Students shall have time for self-directed activities, as well as, adult-directed activities.

~~(a)~~a. Students shall have choices regarding activities and an opportunity to help plan activities.

~~(b)~~b. Parents shall be informed of any TV, ~~or~~ movies, or computer games to be shown.

~~(c)~~c. Staff shall ~~have a procedure for regularly~~ monitoring ~~computer, tablet, and other technology~~ use.

a. Sports and physical activity ~~must~~shall be offered, weather permitting.

d.

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b. Students shall have opportunities for learning, self-expression, and enrichment activities each day.

e.

~~(d)~~f. Students shall receive child abuse awareness and personal safety information.

~~(39)~~(11) Teachers shall be knowledgeable of ~~D~~developmentally ~~A~~appropriate school-age behavior.

~~(a)~~a. Discipline ~~must~~shall be in accordance with rules and policy adopted by the ~~P~~program to define ~~P~~program objectives, student expectations, behavioral code, and discipline procedures. The rules and policy ~~must~~shall be made available to all participants in an accessible document such as a student handbook.

e. No corporal punishment is allowed.

b.

~~(b)~~

(e)c. Good behavior ~~must~~shall be praised and encouraged.

~~(40)~~(12) Programs shall comply with the following rules for health and safety:

(a)a. Students shall have immunizations in accordance with this Chapter.

d. Instructions for any student's special health needs ~~must~~shall be documented.

b.

e. Parents shall be notified if their student is hurt or becomes ill.

c.

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(b)d. All Pparents shall be notified of any communicable diseases in accordance with this Chapter.

(e)e. Use of medications ~~must~~shall be in accordance with school system's policy for the administration of medications and health care procedures as defined by T.C.A. § 49-5- 415 and State Board of Education ~~rules and regulations~~ guidelines.

(d)f. Smoking and the possession or consumption of alcohol ~~are~~is prohibited.

(e)g. There ~~must~~shall be a staff member present at all times who has current certification in CPR and first aid training.

(f)h. A first aid kit ~~shall~~must be on the premises as well as a first aid chart.

(g)i. There ~~must~~shall be no firearms on the premises ~~unless otherwise permitted pursuant to~~ Title 49, Chapter 17, Part 13 and T. C. A. § 49-50-803.

j. (k) There ~~must~~shall be an Emergency Management Plan, a written plan to protect students in event of disaster, such as fire, tornado, earthquake, chemical spills, floods, etc.

~~(41)~~(13) Snacks and meals ~~(if full day program)~~ ~~must~~shall be scheduled regularly.

(a)a. Students will receive meals and snacks based on the amount of time spent in the program.

(b)b. Menus ~~must~~shall be posted.

f.c. Special diets and instructions ~~must~~shall be provided in writing.

~~(42)~~(14) Programs shall be in buildings that are not hazardous or dangerous to children.

(a)a. All facilities shall have annual fire and health inspections.

(b)b. All Pprograms shall have a working telephone.

(e)c. Programs shall have thirty (30) square feet of usable space per adolescent.

(d)d. Outdoor recreation/sports area ~~must~~shall have fifty (50) square feet per student.

~~(43)~~(15) Programs serving ~~children students~~ with disabilities shall follow the rules defined in this Chapter.

(a) Adaptations ~~must~~shall be directed towards helping the ~~child~~student become independent and developing self-help skills.

a.

~~(b)~~

~~(c)~~ Specialized services provided shall be documented and information shared with appropriate parties.

b. in accordance with a Child's IEP or Section 504 plan.

**Authority:** T.C.A. §§ 49-1-302(i); 49-1-1101 through 49-1-1109; and 49-6-707. **Administrative History:** Original rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

#### 0520-4201-0426-.16 CIVIL PENALTIES.

- (1) Pursuant to T.C.A. § 49-1-1107(c)(2) the following are the minimum and maximum civil penalties that may be assessed against a School-administered child care program authorized pursuant to T.C.A. §§ 49-1-1101, et seq.
- (2) The Department shall assess the Civil Penalty in an order which states the reasons for the assessment of the Civil Penalty, the factors used to determine its assessment, and the amount of the penalty. The order may not be imposed solely upon the recommendation of an agent of the Department. All orders shall be reviewed by the Department's legal staff before being imposed.
- (3) Prior to the Department's assessment of a Civil Penalty, a Program determined by an agent of the Department to be in violation of these rules may be prescribed a Plan of corrective action. Failure to follow a Plan of corrective action as prescribed by the Department may result in the assessment of a Civil Penalty.

#### ~~(4)~~ Definitions.

~~(a) "Negligence" is the failure of a Child Care Program, owner, Staff, Auxiliary staff, Director or other employees to comply with the duties or standards imposed by these rules, federal, state and local laws, or the standards of care generally required of school-administered child care Programs.~~

~~(b) "Intentional disregard" is the knowing forbearance of a Child Care Program, owner, staff, Auxiliary staff, Director or other employees to comply with the duties or standards imposed by these rules, federal, state and local laws, or the standards of care generally required of school-administered child care Programs.~~

~~(c) "Plan of corrective action" is a plan which provides a schedule for the completion of work to bring a program into compliance with these rules, federal, state and local laws, or the standards of care required of school-administered child care Programs. The plan must include specific strategies to be implemented in program design during the completion of the work. The plan must ensure that children will not be placed in danger due to the program area which is not in compliance and it must ensure that children will not be placed in danger by the work being done to bring the area into compliance.~~

#### ~~(5)~~(4) Civil Penalties Schedule.

##### (a) Major Violations.

1. For any violation of a law or regulation that, due to Negligence or Intentional disregard of a law or regulation, results in serious injury to, or death of, a child, the Department may assess a Civil Penalty in a range from seven hundred fifty dollars (\$750.00) up to one thousand dollars (\$1,000.00). The Department shall determine the amount of the penalty based upon the extent of the injury to the child and whether the injury or death of the child was the result of Negligence or Intentional disregard of the law or regulation. Consideration of the Program's history of prior violations must~~shall~~ also be a factor in the determination of the amount of the Civil Penalty.

~~4.~~

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2. For any violation of a law or regulation that, due to Negligence or Intentional disregard of a law or regulation, results in an injury to a child, the Department may assess a Ceivil Penalty in a range from three hundred dollars (\$300.00) up to five hundred dollars (\$500.00). The Department shall determine the amount of the penalty based upon the extent of the injury and whether the injury to the child was the result of Negligence or Intentional disregard of the regulation. Consideration of the Program's history of prior violations must ~~shall~~ also be a factor in the determination of the amount of the Ceivil Penalty.
  3. For violations of the following categories of regulations the Department may impose a Ceivil Penalty of two hundred dollars (\$200.00) for the first violation, three hundred dollars (\$300.00) for the second violation, and four hundred dollars (\$400.00) for the third and any subsequent such violation:
    - (i) Failure to follow any regulation related to organization, ownership and administration of a Program pursuant to these rules;
    - (ii) Failure to follow any regulation related to health and safety pursuant to these rules;
    - (iii) Failure to follow any regulation related to food, nutritional needs and meal service pursuant to these rules;
    - (iv) Failure to follow any regulation related to maintenance of equipment pursuant to these rules;
    - (v) Failure to follow any regulation related to maintenance of physical facilities pursuant to these rules;
    - (vi) Failure to follow any regulation related to adult:child ratios pursuant to these rules;
    - (vii) Failure to follow any regulation related to supervision of children pursuant to these rules;
    - (viii) Failure to follow any regulation related to dispensing or storing medications pursuant these rules;
    - (ix) Failure to follow any regulation related to care of children with special needs pursuant to these rules;
    - (x) Failure to follow any regulation related to Program staff pursuant to these rules;
    - (xi) Failure to properly store hazardous items such as, but not limited to, cleaning products, pesticides, hazardous chemicals, or other poisonous items pursuant to these rules;
    - (xii) Failure to properly remove or secure firearms within the physical facility and under the ownership or control of the Program, or its staff or other persons permitted access to the children, or failure to prevent exposure of children in the Program's care to firearms which are under the control of the Program, or its Staff, or other persons who have been permitted by the Program to have access to the children pursuant to these rules; or
    - (xiii) Failure to follow or failure to complete a plan-of corrective action plan.

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(b) Minor Violations.

1. A minor violation ~~must~~ be any violation of a law or regulation not described as a major violation in part (a).
2. Each minor violation may require the ~~P~~program to complete a corrective action plan and may subject the ~~P~~program to a ~~C~~ivil ~~P~~penalty of fifty dollars (\$50.00).
3. The existence of six (6) or more minor violations of any type in any period of twelve (12) months ~~must~~ constitute a major violation and may be subject to a ~~C~~ivil ~~P~~penalty imposed by the Department of two hundred dollars (\$200.00) in addition to the penalty for each minor violation. Three (3) or more minor violations of the same regulation in any period of twelve (12) months ~~must~~ constitute a major violation and may be subject to a ~~C~~ivil ~~P~~penalty imposed by the Department of two hundred dollars (\$200.00) in addition to the penalty for each minor violation.

~~(6)~~(5) Upon timely notice of a request for an appeal pursuant to T.C.A. § 49-1-1107(c)(5), the Department shall appoint a hearing officer to conduct the appeal proceedings before the council. The hearing officer shall have the authority of an Administrative Law Judge of the Department of State and shall conduct the appeal process pursuant to the rules of procedure for hearing contested cases as provided by the Tennessee Secretary of State.

**Authority:** T.C.A. §§ 49-1-302 and 49-1-1107(c)(2). **Administrative History:** Original rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018.