

**RULES
OF
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-01-26
STANDARDS FOR SCHOOL-ADMINISTERED CHILD CARE PROGRAMS**

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0520-01-26-.01 INTRODUCTION.

Pursuant to T.C.A. § 49-1-302(i), 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 Programs;
- (5) Before or after school Child Care Programs operated pursuant to §§ 49-2-203(b)(11) and 49-6-707;
- (6) Child Care provided in federally regulated Programs including Title I Preschools and all school-administered Head Start and Even Start Programs; and
- (7) Child Care 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)(22); 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.

0520-01-26-.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

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hearing is to allow the opportunity to challenge enforcement actions taken by the Tennessee Department of Education (Department).

- (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 Programs that have satisfactorily completed the Temporary Certificate of Approval time period and is reissued on an annual basis as long as the Program meets the standards of the Department 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.
- (5) Auxiliary staff. Program staff, excluding Teachers, but including cafeteria staff, Volunteers, teacher assistants, guidance counselors.
- (6) Child. A person under eighteen (18) years of age.
- (7) Child's Age. The age of a Child on August 15 of any given year.
- (8) Child Care. The provision of supervision, protection, and, at a minimum, the basic needs of a child(ren) for more than three (3) hours a day, but less than twenty-four (24) hours a day.
- (9) Child Care Advisory Council. An eleven (11) member council established by T.C.A. § 49-1-302 to advise the State Board of Education in the establishment of Child Care standards and regulations and to act as a hearing tribunal for appeals from actions of the Department regarding the certificate of approval issued to Child Care programs.
- (10) Civil Penalty. A penalty placed upon a Program 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. Commissioner of Education.
- (12) Department. The Tennessee Department of Education and its representatives.
- (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 Developmentally Appropriate curriculum provides for all areas of a child's 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 adopted by the State Board of Education for guidance in appropriate learning expectations.
- (14) Director. The person with overall responsibility for the School-Administered Child Care Program.
- (15) Early Learning Division. The Department's division that oversees all Programs, including, but not limited to, Voluntary Pre-kindergarten, Head Start, Early Childhood Special

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Education, related grants, and other public and non-public school early childhood and School-Age Child Care Programs.

- (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) Infant. A Child 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.
- (19) Kindergarten. A school or class that prepares children for first grade and is part of a public or private school system. Kindergarten Programs in the public school system shall comply with the Minimum Kindergarten Program Law pursuant to T.C.A. § 49-6-201. To enter kindergarten, a Child shall be five (5) years old by August 15 each school year.
- (20) Mixed-Age Group. Mixed age group can also be referred to as “heterogeneous or multi-age”. A group of children with varying ages who are combined to maximize the educational benefits in a non-traditional Program. All Mixed Age Group Programs must 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.
- (22) Non-school, Community-based Organization Program. An organization operating an Infant/Toddler Program, Preschool Program, or school- age before and after school program operated through a contract with the Department and approved by the Department.
- (23) Off-site Activity. Any activity that occurs away from the general premises of the Program’s facility.
- (24) Parent. A biological, legal, or adoptive parent, guardian, or legal or physical custodian who has primary responsibility for a Child.
- (25) Plan of corrective action. 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.
- (26) Pre-kindergarten. A class or program prior to Kindergarten for children who are four (4) years old by August 15.
- (27) Preschool. A Program providing Child Care services to children who are six (6) weeks through five (5) years of age and not in Kindergarten, including children who are defined under this Chapter as “Infant” or “Toddler.”
- (28) Restricted Temporary Certificate. A certificate that limits a Program’s authority in one (1) or more areas of operation issued by the Department to a new Program authorizing the

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program to begin operations while the Program attempts to attain full compliance with all applicable regulations.

- (29) School-age Child. A Child who is five (5) years of age and enrolled in Kindergarten (K) through seventeen (17) years of age. A five (5)-year-old may be classified as a school-age Child in the summer immediately preceding the Child's fall entry into Kindergarten.
- (30) School-administered Child Care Program (Program). A Program listed in 0520-08-01-.01(1)-(7) of this Chapter run by a public or non-public school.
- (31) Staff. Full and part-time Teachers, employees, contractors, or unpaid Volunteers of the Program.
- (32) Teacher. The person at the Program directly responsible for providing for the supervision, protection, and basic needs of a Child.
- (33) Temporary Certificate of Approval. A certificate issued by the Department to a new Program authorizing the program to begin operations while the Program attempts to attain full compliance with all applicable regulations.
- (34) Toddler. A Child who is eleven (11) months through twenty-three (23) months of age.
- (35) Volunteer. A person who provides services for a Program without payment and who is used to supplement the regular Staff or substitute staff.

Authority: T.C.A. §§ 4-5-201, et seq.; 49-1-201(c)(22); 49-1-302(j); 49-1-1102; 49-2-203(b)(11); 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.

0520-01-26-.03 PROGRAM APPROVAL.

- (1) All persons or entities operating a Program shall be approved by the Department.
- (2) A Program seeking approval shall submit a pre-application to the Department Early Learning Division that contains the following information:
 - (a) In accordance with 49-1-1103(d)(1), satisfactory evidence that the facility that is proposed for the care of children has received fire safety and environmental safety approval, that the Director and Staff 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) Verification that the Director's qualifications meet the requirements of Chapter 0520-12-01-.07;
 - (c) Verification that all Staff have successfully completed a criminal history background check as required by T.C.A. § 49-5-413; and
 - (d) Verification of enrollment of School-aged children enrolled in Kindergarten through grade twelve (12) in accordance with all applicable laws and regulations.

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- (3) Upon receipt and review of an application the Department shall conduct an on-site visit to ensure the site is suitable for Child Care activities and does not endanger the welfare or safety of children. Upon satisfaction of the on-site visit by the Department, the Program shall be provided a Temporary Certificate of Approval. During the Temporary Certificate of Approval period:
 - (1) 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 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) 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 Annual Certificate of Approval.
- (5) On or before the expiration of the Temporary Certificate of Approval, the Department shall:
 - (a) Issue an Annual Certificate of approval to a Program that has satisfied the requirements for the ninety (90) day temporary approval;
 - (b) Issue a Restricted Temporary Certificate 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 Annual Certificate of Approval if the Department determines that any of the requirements set forth in this Rule have not been, or cannot be, satisfactorily met.
- (6) A certificate of approval is not transferable from one Program location to another. A certificate of approval issued by the Department is not transferable to a program licensed by the Tennessee Department of Human Services.
- (7) The Department may revoke a certificate of approval at any time upon ninety (90) days' notice to the program. If the health, safety, or welfare of the children in care imperatively requires it, the certificate of approval must be revoked immediately.
- (8) To renew an Annual Certificate of Approval, approved Programs shall submit an annual report to the Department by October 1 in accordance with T.C.A. § 49-1-1108. Any entity not completing the annual report by October 1 must be notified, and if a report is not submitted by the date listed in the notice, the Program's certificate of approval must be suspended.
 - (a) If, after being approved, a Program wishes to change the scope or type of service offered to children and families, the Director shall submit a written request for approval to the Department.
- (9) A Program that submits a satisfactory annual report and demonstrates that the Program can maintain compliance with all laws and regulations during the annual certification period, must be issued a new Annual Certificate of Approval by the Department.

(Rule 0520-01-26-.03, continued)

- (10) Throughout the temporary certification period and during the annual re-evaluation period, immediate access to all areas of the school or 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) during operating hours.
- (11) Any Program found in operation without approval from the Department will be reported to local authorities, and the 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 Program, the Department may require the 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 Program, the modification or elimination of services, the re- inspection of the Program, or the training of management, Staff, or Volunteers.
- (13) Throughout the annual certification period, the Department shall perform a minimum of two (2) visits to the Program, one (1) of which must be unannounced.

Authority: T.C.A. §§ 4-5-201, et seq.; 49-1-201(c)(22); 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.

0520-01-26-.05 PROGRAM ORGANIZATION AND ADMINISTRATION.

- (1) Each Program shall have a budget for the financial support of the Program. Adequate financing must be maintained throughout the year.
 - (a) Proposed budgets and other relevant financial records must be available to the Department upon request.
 - (b) If any Program 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 Program, including but not limited to foreclosure notices, or liens, or, if any Program 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 Program's management shall immediately notify the Department and shall provide current documentation of the status of the Program, 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 be maintained on the operations of the Program's facilities and on the vehicles owned, operated, or leased by the Program and as follows:
 - (a) General liability coverage on the operations of the Program'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.

(Rule 0520-01-26-.05, continued)

- (b) Medical payment coverage must be maintained in the minimum amount of five thousand dollars (\$5,000) for injuries to children resulting from the operation of the Program.
 - (c) Automobile coverage for Programs that transport children:
 - 1. Automobile liability coverage must be maintained in a minimum amount of five hundred thousand dollars (\$500,000) combined single limit of liability.
 - 2. Medical payment coverage must 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 Program.
 - (d) The requirements of this paragraph must not apply to a Program 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 Program 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 be maintained in the records of the Program and shall be available for review by the Department.
- (3) Enrollment.
- (a) A Program shall not enroll a Child into care until the Parent has supplied the Program 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:
 - 1. The Child's physician or the local health department provides an official statement; giving a medical reason why the Child should not be given a specified immunization;
 - 2. The Child's Parent 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 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 under six (6) weeks of age.
 - (e) The Program shall maintain documentation that the Parent was offered an on-site visit of the Program to review the facility and the opportunity to review the Program's policies and procedures prior to the Child being enrolled into the Program.
 - (f) Enrollment of children shall be allowed throughout the year, if the requirements set forth in these Rules are met.

(Rule 0520-01-26-.05, continued)

- (4) Each Program shall implement a plan for regular and ongoing communication with Parents in accordance with guidance issued by the Department. This plan must include but not be limited to communication concerning curriculum, changes in Staff, or changes affecting the child's routine care.
- (a) Parents shall be provided a parent handbook outlining the Program's policies, procedures, and the requirements of this Rule upon admission of the Child. The Program's parent handbook must include, at a minimum:
1. Criteria for the suspension and disenrollment of children (expulsion policy);
 2. Specific criteria concerning the release of children to anyone whose behavior may place the children at immediate risk;
 3. Behavior management techniques;
 4. Rates and late fee policy;
 5. Hours of operation;
 6. Emergency plan and inclement weather policy;
 7. Smoke free environment policy;
 8. Daily schedule;
 9. Transportation policy;
 10. Parental access policy;
 11. Curriculum and topics of study; and
 12. Meal service policy.
- (b) The Program shall require the Parent to sign for receipt of the policies and summary of the requirements of this Rule, and the signed receipt must be maintained by the Program in the Child's file.
- (c) Parents shall be permitted to see the professional credential(s) of 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, with information on the detection, reporting, and prevention of child abuse in Child Care programs 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 Parents and funding sources of any decision affecting the Program rendered by the Child Care Advisory Council serving in the role of hearing tribunal appeals or by any court.

(Rule 0520-01-26-.05, continued)

- (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 Parent or persons authorized on the list to pick up the Child. Students transported to the Program pursuant to 0520-08-01-.13 may be signed in and out by the appropriate Staff. 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 photo identification in accordance with local procedure/policy. The person to whom the Child is released shall sign the Child out of the Program.
 - (d) Children 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, or other emergency services number prior to the release of children. If the person displaying risky behavior is not the Parent, the Program shall not release the Child, and the Parent 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 Parent access and/or denial of access to children. The policy and implementation plan must be provided to all Parents. The policy must be included in the parent handbook.
 - (f) A Parent 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 Parent;
 - 2. Court order;
 - 3. Emergency assumption of custody under T.C.A. § 37-1-113 without parental permission;
 - 4. The Child's Parent is present and approves; or
 - 5. In conjunction with investigative procedures under child abuse laws.
- (6) Incidents, accidents, and injuries must be reported to the Parent as soon as possible, but no later than the Child's release to the Parent or authorized representative.
- (a) Incidents, accidents, and injuries to children must be documented immediately as follows:
 - 1. Date and time of occurrence;
 - 2. Description of circumstances; and

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3. Action(s) taken by the Program.
 - (b) The Director or designated Staff shall file documentation of incidents, accidents, and injuries to children in the Child's record no later than one (1) business day immediately following the occurrence.
 - (c) The Director shall notify the Department of any Child fatality on or off campus no later than one (1) calendar day immediately following the death.
- (7) All Programs 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, as well as any other records that are confidential under the Tennessee Public Records Act or other state or federal laws.
 - (a) All records must be maintained in an organized manner and must be made available to the Department upon request.
- (8) During the hours of operation, Programs shall post the following documentation near the main entrance:
 - (a) The current certificate of approval;
 - (b) The Department of Human Services' toll-free complaint number;
 - (c) The Department of Children's Services' child abuse number and the notice of requirement to report;
 - (d) A copy of this State Board of Education Chapter;
 - (e) No smoking signs; and
 - (f) 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); 49-1-302(i); 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.

0520-01-26-.06 PROGRAM OPERATION.

- (1) Each Program shall maintain a system that enables all children in the Program's care to receive a level of supervision that is appropriate to their age and their development, physical and mental status to ensure their health and safety and that allows Program Staff to know the whereabouts of each Child.
 - (a) This system shall include a mandatory visual inspection of all areas of the building and grounds immediately prior to closing the Program for the day to ensure that no children have been unintentionally left in any part of the Program's facilities or in any vehicles that the Program uses to transport children.

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- (b) Children six (6) weeks of age through nine (9) of age: the adult shall be able to hear the Child at all times, shall be able to see the Child at a quick glance, and shall 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 Child or children while the Child or children are eating.
 - (d) For children ten (10) years of age and older, the adult shall know the whereabouts and activities of the children at all times and shall 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.
 - (f) Staff shall position themselves strategically for adequate supervision and quick response.
 - (g) Staff shall be aware of the dynamics, interactions, and activities of the entire Group even when supervising only part of the Group at a time.
 - (h) Helper devices such as mirrors, electronic sound monitors, etc., may be used as appropriate to meet these requirements.
 - (i) Teachers shall monitor children's toileting and be aware of their activities while respecting the privacy needs of the Child. Programs shall have a bathroom supervision plan to reflect the developmental needs of children in the Program. Items in plan may include, but are not limited to, location of Staff, times of bathroom breaks and locations, and emergency bathroom procedures.
 - (j) The Program shall maintain a plan 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 Child shall be in a defined Group based on their age and assigned to that Group with a specific Teacher.
- (a) When Infants are cared for in a Program 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.
 - (b) In order to assure the continuity of care for children thirty (30) months of age to five (5) years of age and their Teachers, the children shall be kept with the same Group throughout the day and shall not be moved, shuffled, or promoted to a new Group until required based upon the developmental needs of the Child; provided however, that:
 - 1. For children, Groups, excluding Infants and Toddlers, may be combined for short periods for a special activity, including but not limited to a 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.
- (3) Each Program shall adhere to the maximum Group size and adult:child ratios required by this Chapter.

(Rule 0520-01-26-.06, continued)

- (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) The adult:child ratios shall be maintained by the Program while the children are indoors and on the playground.
 - (c) The maximum Group size and adult:child ratio shall be based on standards set forth in this Rule.
 - (d) All children physically present in the Program's facility or the Program's assigned area within the facility shall be counted in the adult:child ratio and Group size.
 - (e) Any number of children in excess of the adult:child ratio requires a second qualified adult Teacher; provided, however, that the maximum Group size shall not be exceeded.
 - (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, 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.
 - (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 meet the following Group size and adult:child ratios as determined by the Child's Age on August 15:

- (a) Maximum Group size and adult:child ratio for single-age 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), Special Education, Preschool Development Grant (PDG)	20	1:10

- (b) Maximum Group size and adult:child ratio for multi-age Grouping:

Age	Group Size	Adult:Child Ratio
Infant-18 months	8	1:4

(Rule 0520-01-26-.06, continued)

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 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 Parent, that a Child is sufficiently mature, emotionally and academically, then the Child may be permitted to enter a Mixed-Age three through six (3-6) year old Program.
- (e) For children three (3) years through Pre-kindergarten, class assignment shall be determined based on the Child's Age on August 15th pursuant to T.C.A. § 49-6-3001.
- (f) Group sizes or class assignments and adult:child ratios may not be adjusted based on a change to a Child's Age during the school year. Schools shall not change a Program status mid-year (e.g., from single-age to multi-age due to a Child's Age).
- (g) Maximum Group size and adult:child ratio during arrival and departure (1 hour prior to and end of the school day), excluding Infants and Toddlers:

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

- (h) Maximum Group size and adult:child ratio during before and after school 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 – Kindergarten	24	1:16

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

(Rule 0520-01-26-.06, continued)

- (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;
 - (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 Child injury, weather evacuation, toileting, and other personal care needs of children or Staff, etc.; and
 - (e) A communication link among playground supervisors and designated Staff, 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 to be included in the adult:child ratio for Off-site Activities, the school shall have required background checks, Child abuse check, and vulnerable person's registry check on file for the Parent.
 - (c) For children in Kindergarten through thirteen (13) years of age the following requirements shall be met:
 1. The number of teachers required to be present on Off-site Activities shall be at a minimum, equivalent to the number that would be required in the Program; additional adults to meet the following off-site ratios in chart below may be Teachers, Volunteers and/or unpaid staff.

Number of children	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

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

(Rule 0520-01-26-.06, continued)

1. The following adult:child ratios shall be followed:

Age	Adult:Child Ratio
Six (6) weeks – twelve (12) months	1:1
Thirteen (13) – thirty-five (35) months	1:2
Three (3) years old	1:3
Four (4) years old	1:4
Five (5) years old	1:5
School-age (Kindergarten and above)	1:10

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 supervise from above the level of the swimmers, preferably from an elevated lifeguard chair.
3. The lifeguard shall not be included in the required adult:child ratio.
4. Remaining Teachers shall 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); 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.

0520-01-26-.07 STAFF.

- (1) All Programs shall be staffed with a 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.
- (2) All Staff employed in Pre-kindergarten Programs shall meet all state licensure requirements as required by Rule 0520-02-03.
- (3) All Staff, including Auxiliary staff, substitute staff, Volunteers, 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 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.
- (4) All Staff, both paid and unpaid, shall be at least twenty-one (21) years of age in order to work in a Program 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

(Rule 0520-01-26-.07, continued)

an early Child Care Program. At least one (1) adult available on the premises during Program operating hours shall be able to read and write English.

- (5) Prior to assuming duties, each new employee shall receive two (2) hours of orientation, and be able to explain the Program philosophy, emergency procedures, policies regarding discipline of children, policies regarding the reporting of child abuse, Sudden Infant Death Syndrome (SIDS), and policies for receiving and dismissing children.
- (6) Within the first two (2) weeks of employment and annually thereafter, each employee, including Directors, Teachers, 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-Program communication;
 - (c) Disease control and prevention and health promotion;
 - (d) An overview of certificate of approval requirements;
 - (e) Food allergies;
 - (f) Supervision during high risk activities, such as eating and outdoor play;
 - (g) Meal service and safe food preparation policies;
 - (h) Shaken baby syndrome;
 - (i) Abusive head trauma;
 - (j) Safe sleep procedures;
 - (k) Developmentally Appropriate Practices;
 - (l) Administration of medication (where applicable)
 - (m) Emergency preparedness and first aid;
 - (n) Storage of hazardous materials and bio contaminants;
 - (o) Precautions in transporting children (if applicable); and
 - (p) Policies regarding discipline and supervision of children.
- (7) All training must be documented and be available for review by the Department's staff at any time.
- (8) The Program shall maintain written documentation that each employee has read the full set of this Rule. In addition, a copy of these rules shall be readily accessible to all Staff.
- (9) Each Program location where children are present shall have an on-site Director. The on-site Director, with the guidance of the board or owner of the Program, shall be responsible for Staff and the day-to-day operation of the Program. On-site Directors shall meet the following criteria:

(Rule 0520-01-26-.07, continued)

- (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 and shall meet at least one (1) of the minimum qualifications in both columns.

Education level	Minimum experience required
Graduation from an accredited four-year (4-year) college.	One (1) year of full-time experience in a Child Care or school setting. Experience may be paid or unpaid.
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 a related field.	Two (2) years of full-time experience in a Child Care or school setting. Experience may be paid or unpaid.
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 Child Care or school setting. Experience may be paid or unpaid.
Has been continuously employed as an on-site Program Director or Child Care Program owner since July 1, 2000.	Has been continuously employed as an on-site Program Director or Child care Program 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.
 - (d) Directors shall annually 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 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 documented work experience (paid or unpaid) in a child care or school setting.

(Rule 0520-01-26-.07, continued)

- (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.
 - (c) Assistant directors shall complete at least thirty (30) hours of professional development, of which six (6) hours shall be in Developmentally Appropriate Literacy Practices and three (3) hours shall be in administration management or supervisory training.
- (11) All Teachers and assistant teachers shall be at least twenty-one (21) years of age and shall meet the following criteria:
 - (a) Full-time 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 Developmentally Appropriate Literacy Practices.
 - (b) Teachers shall demonstrate knowledge and understanding of growth and development patterns of children and understanding of appropriate activities for all children.
- (12) Part-time Teachers and teaching assistants shall meet the following criteria:
 - (a) Prior to assuming duties, part-time Teachers and assistant teachers shall complete two (2) hours of pre-service orientation training offered or recognized by the Department.
 - (b) Part-time Teachers and assistant teachers shall complete at least fifteen (15) hours of professional development, of which three (3) shall be in Developmentally Appropriate Literacy Practices and three (3) shall be obtained by completing the required trainings found in this Rule.
 - (c) Part-time Teachers shall demonstrate knowledge and understanding of growth and development patterns of children and understanding of appropriate activities for all children
- (13) Programs may employ substitute staff. Substitute staff employed in Programs, other than Local Education Agency (LEA) Pre-kindergartens, are not subject to the requirements of T.C.A. § 49-3-312 or T.C.A. § 49-5-709. Substitute staff shall meet the following criteria:
 - (a) Substitute staff shall comply with the same orientation requirements defined by these rules for all Program Staff and shall be provided a Program orientation prior to assuming duties.
 - (b) Substitute staff who have acted as Teachers for two hundred (200) or more hours in the previous calendar year shall meet the training requirements contained in the rules for part-time Teachers.
 - (c) Auxiliary staff may be used as emergency substitute staff if their qualifications permit, but not while performing auxiliary duties.
 - (a) Substitute staff shall meet the same background check requirements as regular Staff required by this Rule.

(Rule 0520-01-26-.07, continued)

- (d) Persons serving temporarily as Teachers in field service placements as part of an educational course of study or other curriculum requirement (e.g., practicum students) shall not serve as substitute staff for purposes of this paragraph.
- (14) Volunteers shall not be included in the adult:child ratios. The on-site Director shall be responsible for and supervise the activities of Volunteers to assure the safety of children.
- (15) All Programs shall require any person employed in a position with proximity to children to:
- (a) Provide evidence of all background checks required pursuant to state and federal law.
 - (b) This evidence must be obtained by the Program prior to employment.
 - (c) The Program shall immediately review the report of the background check received from the Tennessee Bureau of Investigation and shall immediately consult with the Department to resolve any questions relative to the person's status. Upon determination that the person's status prohibits the person from having access to children as described in this Chapter, the Program shall immediately exclude such person from access to children. Failure to exclude the person under this part will result in immediate suspension of the Program's certificate of approval.
 - (d) A new fingerprint sample must be obtained for all employees every five (5) years.
- (16) No individual with a prohibited criminal history as defined below may work, substitute, or Volunteer in a Program, be an owner, Director, or manager of a Program who has access to children, have significant contact with children or otherwise have unrestricted access to children in any manner whatsoever. An individual shall be immediately and automatically excluded from a Program or any contact whatsoever with children if the individual's criminal history includes:
- (a) A criminal conviction or a no-contest or guilty plea; or any pending criminal action, including individuals subject to any warrant, indictment, or presentment, etc.; or placement in a pretrial diversion; or
 - (b) A pending juvenile action or previous juvenile adjudication, which, if an adult, would constitute a criminal offense; and
 - (c) Any of the circumstances in (a) or (b) above involves any of the following criminal offenses:
 1. Any offense (including a lesser included offense) involving the physical, sexual, or emotional abuse or gross neglect of a Child or involving a threat to the health, safety, or welfare of a Child;
 2. Any offense (including a lesser included offense) involving violence, or the threat of violence against another person; 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;

(Rule 0520-01-26-.07, continued)

- (b) Is listed on the Department of Health's Vulnerable Persons Abuse Registry; or
 - (c) Is known to the Program as a perpetrator of child abuse or child sexual abuse or to have a prohibited criminal record, who is identified to the Program's management by the Department of Children's Services as a validated perpetrator of abuse of a Child based upon an investigation conducted by the Department of Children's Services or by the child protective services agency of any other state; or, who at any time is identified by any person or entity to the Program's management and is confirmed by the Department as having a prohibited criminal history.
- (18) An individual with a prohibited history as set forth below shall be immediately and automatically excluded from providing driving duties on behalf of the Program if the individual:
- (a) Has a pending criminal action, including warrants, indictments, presentments, etc., 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 Child based on an investigation conducted by the Department of Children's Services, or any child protective services agency of any state, and who has not been criminally charged or convicted or pled guilty as stated above, shall be supervised by another adult while providing care for children.
- (20) Any person who is excluded or whose certificate of approval or operator status is denied based upon the results of the 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 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 be heard by an advisory committee composed, at a minimum, of law enforcement personnel, persons experienced in child protective services, persons experienced in child development issues, and Child Care 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 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.

(Rule 0520-01-26-.07, continued)

- (22) The employment status of persons for whom a post-employment background check was conducted, or the status of existing Program owners or operators, substitute staff or Volunteers of a Program for whom a background check was conducted after issuance of a certificate of approval or after employment or assuming duties as a 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.
- (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.

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.

0520-01-26-.09 PROGRAM REQUIREMENTS.

- (1) Educational activities shall be based on Developmentally Appropriate Educational Practices.
- (a) Children enrolled in Programs ages six (6) weeks to-twenty-four (24) months shall be provided opportunities to participate in a Department approved education curriculum that is aligned with the Tennessee Early Learning Development Standards (TNELDS) and shall be provided opportunities to: (See TNELDS standards for Birth-48 months)
1. Sit and listen to a Teacher read aloud individually and in a Group setting;
 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 Teachers;
 4. Engage in facilitated exploration by touching, feeling, and identifying 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 poetry, nonfiction, fiction, and informational texts; and
 6. Experience daily tummy time.
- (b) Children enrolled in preschool/Pre-kindergarten Programs ages twenty-four (24) months to five (5) years shall be provided opportunities to participate in a Department approved education curriculum that is aligned with the Tennessee

(Rule 0520-01-26-.09, continued)

Early Learning Development Standards (TNELDS) and shall be provided opportunities to:

1. Sit and listen to a Teacher read aloud to them individually and in a Group daily;
 2. Engage in pretend play;
 3. Engage with Developmentally Appropriate Educational and open-ended materials, (i.e., blocks, clay, sand);
 4. Engage in meaningful conversations with peers and Teachers;
 5. Write, create, and engage with print-rich materials;
 6. Engage with a variety of culturally diverse books and materials that encourage early literacy skills in print concepts, phonemic awareness (e.g., rhyming, manipulating sounds, isolating sounds, alliteration), and letter identification;
 7. Engage in a variety of activities that support number sense, mathematical thinking, and understanding; and
 8. Help with daily Program and self-care routines.
- (c) Children enrolled in any LEA Pre-Kindergarten Program shall 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 balance 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 one hour per day.
 - (b) Children shall not be left in restraining devices such as swings, car seats, or high chairs more than 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) Opportunities must be provided for children to interact with one another.
 - (d) Opportunities must be provided for children to be by themselves to play alone if they choose, in a small quiet area away from other activities.

(Rule 0520-01-26-.09, continued)

- (e) Children shall be encouraged to participate in the planning of their schedules and activities.
 - (f) Indoor physical activities, requiring children to use both large and small muscles, must be provided for children of each age group.
- (3) For ages three (3) through school-age, the Program curriculum shall include instruction in personal safety.
 - (a) The personal safety curriculum must include a Department-recognized component on the prevention of child abuse, based upon Department guidelines. The 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 Program shall be made available to the Parents for review.
 - (c) The record of each enrolled Child shall include a copy of the signed notification form acknowledging that Parents have been provided an opportunity to review the Program's personal safety curriculum, and have been notified of the personal safety curriculum, including sexual abuse content, for their Child.
 - (d) If Parents have questions regarding the personal safety curriculum, a representative of the Program shall meet with the Parent to discuss the personal safety component of the curriculum.
 - (e) For School-age children, the personal safety curriculum is integrated into the Health and Wellness Standards during the school day for K-12 students. The School-age children enrolled in the Program shall be provided information on reporting physical, verbal, or sexual abuse to the students.
- (4) Programs shall 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 be extended to children of all ages who are in care more than three (3) daylight hours; provided, however, for 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 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 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 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.

(Rule 0520-01-26-.09, continued)

- (c) Discipline must 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 be used.
- (f) Time out must be reasonable and Developmentally Appropriate.
 - 1. Time out must take place in an appropriate location based upon the development of the Child.
 - 2. The length of each time out session must be based on the age of the Child and must not exceed one (1) minute per each year of age of the Child; 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 Child between thirty-six (36) months and sixty (60) months of age shall be placed in time-out for longer than five (5) minutes.
- (6) Toilet training must never be started until a Child has been in the Program 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 circumstances, including but not limited to, acute illness of or injury to Parents, severe weather conditions, natural disaster, and unusual work hours. In such cases, every effort must be made to minimize the amount of time spent in the Program by exploring and documenting alternatives such as part-time care, care with a relative, or other available options. Individualized plans for the care of a Child for more than twelve (12) hours due to extraordinary circumstances must be signed by the Parent and the Director and must be approved by the Department. Plans must be updated annually.
- (8) When more than twelve (12) School-age children in first (1st) grade and above are present alongside the Child Care Program, 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 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.

0520-01-26-.10 HEALTH AND SAFETY.

- (1) Current and comprehensive first aid information must be available to all Staff who interact with children. A standard first aid kit (e.g., kits approved by the American Red Cross) must 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

(Rule 0520-01-26-.10, continued)

certification course must 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.
 - (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 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 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.
 - (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 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 Programs.
- (6) The consumption or possession of alcohol is not permitted on the premises of a 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.
- (8) Kitchen knives and other potentially dangerous utensils or tools must be secured so that they are not accessible to children.
- (9) Staff's personal belongings such as contents of purses, backpacks, coat pockets, diaper bags shall always be inaccessible to children.
- (10) The following emergency telephone numbers must be readily available to any staff member:
 - (a) Fire department;
 - (b) Police department/sheriff;
 - (c) Nearest hospital emergency room;
 - (d) Child abuse hotline;

(Rule 0520-01-26-.10, continued)

- (e) Local emergency management agency;
 - (f) Ambulance or rescue squad;
 - (g) Poison control center;
 - (h) 911 or a similar generic number operated in the community; and
 - (i) Contact numbers for Parents.
- (11) Programs shall comply with the following rules for the health of children:
- (a) All children shall be checked by Staff upon arrival and observed for signs of communicable disease during the day.
 - (b) A Child'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 Group by Staff until Parents are contacted and health issues are resolved.
 - (c) A Child shall be fever-free for twenty-four hours prior to readmission to the Program.
 - (d) Children diagnosed with 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.
 - (e) The Program may not provide care and/or isolation for a Child with contagious conditions unless written instructions are obtained from a licensed physician or certified health care provider.
 - (f) 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. Any Child with a positive tuberculin skin test or positive tuberculosis blood test shall be referred to a physician for evaluation. After the initial evaluation, future periodic screening is not required unless the Child develops persistent pulmonary symptoms or there is contact with tuberculosis.
 - (g) Staff shall make every reasonable attempt to notify Parents immediately when a Child shows signs of serious illness, including but not limited to, high temperature, disorientation, coughing, vomiting or diarrhea with blood present, severe difficulty breathing, seizure to arrange for emergency treatment.
 - (h) In no event shall the Program delay seeking emergency treatment due to a delay in contacting the Parent.
 - (i) Parents of every Child 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;

(Rule 0520-01-26-.10, continued)

4. Shigella;
 5. Measles, mumps, and/or rubella;
 6. Pertussis;
 7. Polio;
 8. Influenza type A or B;
 9. Meningococcal meningitis;
 10. Staphylococcus aureus; and
 11. Any other illness identified by the state or local Department of Health.
- (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 immediately when a Child sustains severe injury(s), including but not limited to, massive bleeding, broken bones, head injuries, or possible internal injury, to arrange for emergency treatment.
- (13) Tuberculosis (TB) screening prior to on-going contact with children is recommended for any staff 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.
- (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 by designated Staff or management-level Staff to administer. An alternate staff person shall be available to administer medication in the event the designated Staff is absent.
 - (b) The designated Staff shall document verification of the following:
 1. The Parent'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.

(Rule 0520-01-26-.10, continued)

- (c) The following documentation of administration shall be maintained in the Child's file and a copy provided to the Parent:
 - 1. Times medications administered;
 - 2. Noticeable side effects; and
 - 3. Name of Staff administering medication to Child.
 - (d) The Parent 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.
 - (e) Medication must 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 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 feeders unless authorized by a physician.
 - (g) All medicines, 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) LEA Child Care programs shall follow the procedures for administering, handling, and storing all student medications as defined in the 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.
- (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.
 - (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.

(Rule 0520-01-26-.10, continued)

- (e) Infants that fall asleep during tummy time shall be placed in their crib immediately.
 - (f) Infants shall be touched by a Teacher every fifteen (15) minutes to check breathing and body temperature and this information must be recorded.
 - (g) Pillows and blankets must be prohibited for Infants.
 - (h) If a Child appears not to be breathing, the Program shall immediately begin CPR and call for emergency medical assistance.
 - (i) The areas where Infants sleep must have adequate lighting which allows the Teacher to quickly, at a glance, verify that the Child's head is uncovered, that the Child is breathing, and otherwise visually verify the Child's condition.
- (16) For the protection of children and adults, the Centers for Disease Control guidelines for hand washing and diapering procedures must be followed. Hand sanitizer must not be a substitute for soap and water and must be kept out of reach of children.
- (17) Diapering must 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 toilet training area must be located near a hand washing lavatory and must be located in a separate area from the food preparation/service area.
 - (c) All diapering surfaces must be off the floor, and nonporous and must 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) must be made daily.
 - 2. Substitutions for the bleach solution required in 1. above that are approved for the childcare setting by the Department of Health are permissible.
 - 3. The solution required in 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 must be used for diaper disposal and must be inaccessible to children. This container must be emptied by closing the liner and disposing of it in an outside receptacle.
- (18) Program equipment and appliances must meet the following safety requirements:
- (a) Manufacturer's safety instructions must be followed for the use and installation of all indoor and outdoor equipment and appliances. Such instructions must be retained and communicated to all appropriate Staff.

(Rule 0520-01-26-.10, continued)

- (b) All indoor and outdoor equipment must be well-made and safe. There must 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 must be repaired or removed from the room or playground immediately.
- (e) Equipment must be kept clean by washing frequently with soap and water.
- (f) There must 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, must be provided for the belongings of each Child.
- (h) In Infant/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 School-age child's belongings.
- (j) There must be provisions for napping or sleeping for each Preschool 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 Child shall be forced to nap
 - 2. No 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 Program type.
 - 3. 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 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.

(Rule 0520-01-26-.10, continued)

- (v) A clean sheet or towel must be used to cover whatever the Child sleeps on.
 - (vi) A clean coverlet must be available to each Child.
 - (vii) Soiled sheets and coverlets must be replaced immediately.
 - (viii) Each crib, cot, bed, or mat must be labeled to promote that each Child naps on their own bedding.
6. Crib mattresses must not be positioned directly on the floor for rest.
- (19) All Program Staff, including 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 Child reasonably indicating abuse or neglect of that Child or another child or any evidence of abuse or neglect observed on a child, to the Department of Children's Services and law enforcement.
- (20) If the information is received from a Child, the following procedures must be followed:
- (a) If a Child voluntarily discloses information about possible abuse to Program Staff or a Volunteer in a Program, then the Child shall be provided with a quiet and private place to speak and the person receiving the information shall listen openly and speak at the Child's level in a positive, non-judgmental tone.
 - (b) The person receiving the information from the Child shall:
 - 1. Allow the Child to say what happened in the Child's own words;
 - 2. Avoid conducting an investigation by asking the Child detailed questions;
 - 3. Make every effort to write down the Child's exact words;
 - 4. Refrain from making any statements to the Child about the alleged abuse, the alleged abuser, or the consequences of the Child 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.
- (21) If a third party informs a Program personnel of a reasonable suspicion that a Child at the Program may be the victim of child abuse or neglect, or child sexual abuse, then the Program personnel shall:
- (a) Encourage the third party to report the suspicion to the Department of Children's Services and law enforcement;

(Rule 0520-01-26-.10, continued)

- (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.
- (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:
- (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;
 - (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.
- (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.
- (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.
- (25) The Program shall not develop or implement policy that inhibits, interferes with or otherwise affects the duty of any Staff, including substitute staff and Volunteers, to report suspected abuse, neglect, or sexual abuse of a Child as required by this rule and T.C.A. §§ 37-1-403, 37-1-605, and 49-6-1601 and must 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.
- (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 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.

(Rule 0520-01-26-.10, continued)

- (27) A Program staff member or 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 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.
- (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 not be taken by any Program personnel.
- (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.
- (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 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 Staff and Volunteers in a Program 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 Staff.
 2. The Program shall allow appropriate investigators to interview children and Staff.
 3. The Program shall not interfere with a child abuse or neglect, or child sexual abuse, investigation.
 4. The Program shall protect the 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

(Rule 0520-01-26-.10, continued)

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.

0520-01-26-.11 FOOD.

- (1) If the Program provides food the Program shall provide Developmentally Appropriate meals, snacks, and drinks for each Child that are of sufficient proportions and nutritional value to meet each Child's health needs in accordance with the following minimum requirements:
 - (a) For children in the Program 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 Child is fed their meal at home or in school, the Child shall be served two (2) snacks in lieu of a meal.
 - (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 Child is fed their meal at home or in school, the Child 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 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 must be provided to children who arrive before 7:00 a.m. and who have not had breakfast at home.
 - (f) All special needs diets must be prepared as prescribed by a physician or by the written instructions of the Parent.
 - (g) In order for Parents to be aware of the food their children are receiving, the week's menus must be planned and posted by the first day of each week and remain posted throughout the week. These menus must be followed, although reasonable substitutions are permissible, if the substituted food contains the same nutrients. Any change must be documented in advance of the meal.
 - (h) Food must not be forced on or withheld from children.
 - (i) Programs shall establish a feeding schedule for Infants.
 - (j) Bottled breast milk, Infant bottles, and formula must not be heated in a microwave.
 - (k) Infants shall be held while bottle feeding.
 - (l) Children shall not be permitted to carry a bottle with them throughout the day.

(Rule 0520-01-26-.11, continued)

- (2) The following rules must be followed for meal service:
 - (a) Staff and children shall wash their hands with soap and water.
 - (b) High chairs and tables on which food is prepared and served must 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 must be swept and/or vacuumed after each meal and cleaned as needed.
 - (d) Solid foods, including cereal, must not be given in bottles or with Infant feeders to children with normal eating abilities unless authorized by a physician.
 - (e) To avoid choking, foods must be appropriately sized for the eating and chewing abilities of children.
 - (f) At mealtime, children shall be seated at appropriately sized tables and chairs, and adults shall supervise them.
- (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 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 Teacher, 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 Infant 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:

(Rule 0520-01-26-.11, continued)

- (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.
- (10) The following rules for food sanitation must be followed:
- (a) Raw fruits and vegetables must be washed before use.
 - (b) Utensils must be thoroughly cleaned and sanitized after each use. Single-service utensils must be made from non-toxic materials and must be discarded following use.
 - (c) Milk/formula and food must 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(i); 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.

0520-01-26-.12 PHYSICAL FACILITIES.

- (1) Physical facilities must maintain compliance with all applicable health and safety codes throughout the certification year and must additionally comply with any updated standards issued by the Fire Marshal and the Department of Health.
- (2) All facilities must have a means of communication via phone.
- (3) All facilities must have internal plumbing.
- (4) The maximum number of children who may be present inside a physical space (e.g., the 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

(Rule 0520-01-26-.12, continued)

children in care, restrict the 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 be provided for each Child.
 - (b) Career and technical early Child Care classes shall have separate space for the Group of young children, with thirty (30) square feet per Child of usable space, apart from the 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 Child's learning space.
 - 2. Non-usable space that must not be included in the square footage calculation includes:
 - (i) Staff's desk;
 - (ii) Staff's file cabinet;
 - (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) Group; provided, however, that each area is adequately equipped and arranged and that each Group shall have the security of a stable Program space.
- (5) All indoor areas must be clean and safe.
- (a) The indoor play and care areas must be free of hazardous items that could be accessible to children.
 - (b) Indoor play equipment must meet the following guidelines:

(Rule 0520-01-26-.12, continued)

1. Pieces of equipment, such as television sets, bookcases, and appliances, must be secured or supported so that they will not fall or tip over.
 2. Sufficient indoor equipment, materials, and toys must 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, must be organized and displayed within children's reach so children 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 must be inaccessible to Infants and Toddlers.
- (6) Outdoor play areas must 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, at its discretion, waive 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 must meet the following guidelines:
 1. There must be Developmentally Appropriate outdoor play equipment for children who are in care more than three (3) daylight hours.
 2. 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.
 3. All outdoor play equipment must be placed to avoid injury and include fall zones that 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 continually certified as approved since prior to January 1, 2002, must be permitted to maintain fall zones of at least four feet; provided, however, that any expansion or addition must comply with the six (6) feet fall zone required by part (i) above.
 - (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 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:

(Rule 0520-01-26-.12, continued)

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
Coarse 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 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 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.
- (7) Drinking water from individual single service cups or an approved drinking fountain must be provided in all occupied rooms.
 - (8) All garbage must be removed from the building daily, and all garbage storage receptacles must be outside and kept closed with tight-fitting lids. The area surrounding the garbage containers must be kept clean.
 - (9) The building must be kept clean and maintained in good repair, without unsafe cracks, leaks, or unsatisfactory plumbing.
 - (10) Adequate natural and/or artificial lighting must be provided throughout the facility.
 - (11) All rooms used by children must be maintained at a temperature of between sixty-eight (68) and 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 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 be kept removed from the building and grounds.
 - (14) Swimming pools and wading pools must be fenced and must not be used without prior approval by the Department of Health.
 - (15) Grounds, tire swings, and containers must have adequate drainage to prevent standing water that can breed mosquitoes and other insects.

(Rule 0520-01-26-.12, continued)

- (16) If animals or birds are kept in Programs as pets, they must 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 Program 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.

0520-01-26-.13 TRANSPORTATION.

- (1) If a Program provides transportation or contracts for transportation, the Program's management shall be fully responsible for all transportation of children, including between home and 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 are owned or operated by, contracted for or that are otherwise under the direction or control of the 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 Non-school, Community-based Organizations which transport children shall comply with the following:
 1. Automobile liability coverage must be maintained in a minimum amount of five hundred thousand dollars (\$500,000) combined single limit of liability.
 2. Medical payment coverage must 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 shall be in compliance with passenger restraint laws, pursuant to T.C.A. § 55-9-602 and children shall be transported in rear seats.
 - (a) Any Child under one (1) year of age and weighing twenty pounds (20 lbs.) or less shall be properly secured in a Child passenger restraint system in a rear facing position.

(Rule 0520-01-26-.13, continued)

- (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 Child 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 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;
 - (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;

(Rule 0520-01-26-.13, continued)

- (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 must 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..
 - (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 must be practiced by all Staff responsible for transporting children on a regular basis. All items must be secured.
- (14) Transportation routes must be in compliance with T.C.A. § 49-6-2105 to ensure no Child 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 be in the vehicle whenever a Child is in the vehicle.
 - (b) An adult shall 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 disabilities must be in compliance with the Individualized Education Program (IEP) or Section 504 Plan for each Child.
 - (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.

(Rule 0520-01-26-.13, continued)

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-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 Child to be seen with a quick glance;
 - (ii) Each Child to be heard at all times;
 - (iii) Each Child's activities to be observed; and
 - (iv) The monitor to respond immediately should there be an emergency.
- (17) A passenger log must be used during transportation of children.
- (a) The first and last name of each Child received for transport shall be recorded on the passenger log. A sibling Group shall not be listed as a single Group entry (e.g., "Smith children").
 - (b) The driver of the vehicle or the monitor shall be designated as the person responsible for completing the log.
 - (c) As each Child is loaded onto the vehicle the time the Child was placed on the vehicle shall be recorded on the passenger log.
 - (d) The passenger log must be updated immediately upon the Child being released from the vehicle. The time the Child was released must be recorded and initialed by the person responsible for completing the log.
- (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 Child 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 Child 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 designated Staff. 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 Child.

(Rule 0520-01-26-.13, continued)

- (c) When children are transported on the return route, the school bus driver shall not leave a Child at the Child's home or bus stop unless the Parent or other authorized person is present. If the Parent or other authorized person is not present, the Child 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 Programs providing transportation must 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 Child Care Program, transportation to and/or from Child'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 Programs policy, procedures and Staff training plans for maintaining compliance with responsibilities for loading and unloading and tracking each Child;
 - (e) Describing the Program's management plan for ensuring all transportation Staff properly perform their duties in accordance with these rules and Program policies and procedures;
 - (f) Describing the Program's s policy, procedures and Staff transportation training plans for maintaining compliance with transportation rules and state law; and
 - (g) Describing the Programs policy, procedures and Staff training plans for the emergency evacuation of the vehicle.
- (20) Non-school, Community-based Organization vehicles must meet the following requirements:
 - (a) Annually, all Non-school, Community-based Organization's vehicles that are designed by the vehicle manufacturer to carry ten (10) or more passengers must 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) 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.
 - (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.

(Rule 0520-01-26-.13, continued)

- (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.
- (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.
- (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).
- (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.
- (i) Emergency exiting procedures must be practiced on a regular basis by all staff responsible for transporting children.
- (j) Any vehicle, contracted by a Non-school, Community-based Organization for the purposes of transporting children in a Program administered by a Non-school, Community-based Organization, shall be a for hire commercial passenger vehicle properly registered with the Federal Motor Carrier Safety Administration.
- (k) The contracted vehicle must have a commercial license plate (tag) and must 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 have five million dollars (\$5,000,000) liability coverage.
 - 2. Any vehicle with seating capacity of fifteen (15) passengers or less must have one and one-half million dollars (\$1,500,000) liability coverage.

(Rule 0520-01-26-.13, continued)

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.

0520-01-26-.14 CARE OF CHILDREN WITH DISABILITIES.

- (1) Programs shall comply with applicable state and federal law, including Section 504 of the Rehabilitation Act of 1973, to ensure children with disabilities have equal opportunity to participate in the Program as their non-disabled peers.
- (2) Parents or other appropriate individual identified by the Parent shall provide information and, as appropriate, training to Teachers regarding special needs/techniques/emergency measures, as utilized in the Child's home to ensure the Child's well-being.
- (3) Adaptations to the environment must be directed toward normalizing the lifestyle of the Child with a disability by helping him/her become independent and develop self-help skills.
- (4) Behavior management techniques or Program activities which would demean or isolate the Child are prohibited.
- (5) The Program shall inform Parents of any specialized services available from the Program, and if the Program is aware of any specialized services available through third parties, shall additionally inform the 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 Parent in accordance with the Individual Family Service Plan (IFSP), Individual Education Plan (IEP), or Section 504 Plan and documented in the Child's record. Any information exchange regarding these services that is shared with or received from third parties shall also be documented.
- (7) The Program shall have written individualized emergency plans for each Child with a disability who requires more assistance in emergencies than other children of the same age or in the same Group. 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, must be recorded and shared with the Parent(s) daily.
- (9) Diapering of School-age children with special needs must 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 must be immediately cleaned after each diapering.

(Rule 0520-01-26-.14, continued)

- (d) The diapering area must be located near a hand washing lavatory. This area must be in a separate location from the food preparation or service area.
- (10) Isolation and physical restraint must be in accordance with T.C.A. §§ 49-10-1301-1305 and State Board Rule 0520-01-09.
- (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 must be reported pursuant to T.C.A. § 37-1-403.

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.

0520-01-26-.15 SCHOOL-AGE BEFORE AND AFTER SCHOOL PROGRAMS.

- (1) Records must be kept on all School-age children enrolled in each Program.
- (2) Each Program shall post their Annual Certificate of Approval and provide Parents with a copy of the policies and procedures.
- (3) Parents shall have access to all areas of the Program when the student is present.
- (4) Immediate access to all areas of the school or Program shall be granted to all Department representatives and other inspection authorities (i.e., fire safety, sanitation, health, etc.) during operating hours.
- (5) Any Program found in operation without approval from the Department of Education will be reported to local authorities as indicated by T.C.A. § 49-1-1105(a).
- (6) If the Program provides transportation, the transportation must be in accordance with the Rules of this Chapter.
- (7) Staff.
 - (a) Each Program shall have a Director responsible for the day to day operations, including Staff and Program.
 - i. The Director 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 School-age children.
 - ii. Directors shall have eighteen (18) hours of in-service training each year.
 - iii. A person shall be designated to serve as acting Director when the Director is absent.
 - (b) All Staff shall be a minimum of eighteen (18) years of age and one (1) staff member in each Group shall have a high school diploma or high school equivalency credential approved by the State Board.

(Rule 0520-01-26-.15, continued)

- i. High school students in grade twelve (12) may work in before or after school Programs but shall not count in ratios and shall not be left alone with children.
 - ii. All Staff shall have twelve (12) hours of in-service training each year.
 - (c) All Staff shall be physically, mentally, and emotionally stable and shall have knowledge of school-age behavior and development.
 - (d) All new employees shall have orientation and training on the following prior to assuming duties:
 - i. Abusive head trauma;
 - ii. Emergency preparedness;
 - iii. Health and safety;
 - iv. Developmentally Appropriate Practice;
 - v. Effective afterschool programming;
 - vi. Supervision;
 - vii. Parent communication; and
 - viii. Any additional training identified by the Department.
 - (e) Staff shall comply with all history background checks required under 0520-08-01-.07.
 - (f) Program Volunteers shall complete background checks and appropriate in-service training.
 - (g) Staff records must be maintained for each employee with the following: educational background, reference checks, background check, in-service training, physical exams and reviews.
- (8) Each grouping of children shall have adult supervision and shall meet the following minimum staffing requirements:
 - (a) Minimum staffing requirements per 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) Swimming and field trips require ratios be doubled.
- (9) All Program equipment must be in good condition and kept clean.
- (10) Students shall have time for self-directed activities, as well as adult-directed activities.

(Rule 0520-01-26-.15, continued)

- (a) Students shall have choices regarding activities and an opportunity to help plan activities.
 - (b) Parents shall be informed of any TV, movies, or computer games to be shown.
 - (c) Staff shall have a procedure for regularly monitoring technology use.
 - (d) Sports and physical activity must be offered, weather permitting.
 - (e) Students shall have opportunities for learning, self-expression, and enrichment activities each day.
 - (f) Students shall receive child abuse awareness and personal safety information.
- (11) Teachers shall be knowledgeable of Developmentally Appropriate school-age behavior.
- (a) Discipline must be in accordance with rules and policy adopted by the Program to define Program objectives, student expectations, behavioral code, and discipline procedures. The rules and policy must be made available to all participants in an accessible document such as a student handbook.
 - (b) No corporal punishment is allowed.
 - (c) Good behavior must be praised and encouraged.
- (12) Programs shall comply with the following rules for health and safety:
- (a) Students shall have immunizations in accordance with this Chapter.
 - (b) Instructions for any student's special health needs must be documented.
 - (c) Parents shall be notified if their student is hurt or becomes ill.
 - (d) All Parents shall be notified of any communicable diseases in accordance with this Chapter.
 - (e) Use of medications must 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 rules and regulations.
 - (f) Smoking and the possession or consumption of alcohol are prohibited.
 - (g) There must be a staff member present at all times who has current certification in CPR and first aid training.
 - (h) A first aid kit shall be on the premises as well as a first aid chart.
 - (i) There must 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) There must be an Emergency Management Plan, a written plan to protect students in event of disaster, such as fire, tornado, earthquake, chemical spills, floods, etc.
- (13) Snacks and meals must be scheduled regularly.

(Rule 0520-01-26-.15, continued)

- (a) Students will receive meals and snacks based on the amount of time spent in the program.
 - (b) Menus must be posted.
 - (c) Special diets and instructions must be provided in writing.
- (14) Programs shall be in buildings that are not hazardous or dangerous to children.
- (a) All facilities shall have annual fire and health inspections.
 - (b) All Programs shall have a working telephone.
 - (c) Programs shall have thirty (30) square feet of usable space per adolescent.
 - (d) Outdoor recreation/sports area must have fifty (50) square feet per student.
- (15) Programs serving children with disabilities shall follow the rules defined in this Chapter.
- (a) Adaptations must be directed towards helping the child become independent and developing self-help skills.
 - (b) Specialized services provided shall be documented and information shared with appropriate parties, 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.

0520-01-26-.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 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) 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

(Rule 0520-01-26-.16, continued)

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 also be a factor in the determination of the amount of the Civil Penalty.

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 Civil 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 also be a factor in the determination of the amount of the Civil Penalty.
3. For violations of the following categories of regulations the Department may impose a Civil 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;

(Rule 0520-01-26-.16, continued)

- (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 corrective action plan.
- (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 Program to complete a corrective action plan and may subject the Program to a Civil 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 Civil 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 Civil Penalty imposed by the Department of two hundred dollars (\$200.00) in addition to the penalty for each minor violation.
- (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.