Minimum Standards

For

School-Age and Before or After-School Programs

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Minimum Standards
For

School-Age and Before or After-School Programs

Texas Department of Family and Protective Services
Licensing Division

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Introduction

Minimum Standards

These minimum standards are developed by the Texas Department of Family and Protective Services (DFPS) with the assistance of child-care operations, parents, lawyers, doctors, and other experts in a variety of fields. The child-care licensing law sets guidelines for what must be included in the standards. The licensing law requires that proposed standards be distributed to child-care operations for a 60-day review and comment period before adopting the proposed standards as rules. The Administrative Procedure and Texas Register Act require that proposed standards be published for public comment before they are adopted as rules. The department considers recommendations from interested persons or groups in formulating the final draft, which is filed as rules with the Secretary of State. Standards are a product of contributions from many people and groups and thus reflect what the citizens of Texas consider reasonable and minimum.

The minimum standards are also weighted based on risk to children. The weights are: high, medium-high, medium, medium-low, and low. While weights reflect a common understanding of the risk to children presented if a rule is violated, the assigned weights do not change based on the scope or severity of an actual deficiency. Scope and severity are assessed by the Licensing Representative, documented, and considered in conjunction with the standard weights when making Licensing decisions. *Weights are noted on the left next to each standard or subsection. Only those standards which can be violated are weighted. For example, definitions are not weighted.*

Maintaining Compliance

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

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

The Inspection

Various aspects of regulated operations are evaluated for compliance with the minimum standards, rules, and law during regular inspections. The emphasis on these inspections is to prevent risk to children in care. All operations are designated a monitoring frequency based on their compliance history.

A deficiency is any failure to comply with a standard, rule, law, specific term of the permit or condition of evaluation, probation, or suspension. During any inspection, if licensing staff find that the operation does not meet minimum standards, rule, or law, the areas of deficiency are discussed with appropriate operation employees and caregivers. Technical assistance and consultation on the problem areas are provided. Operation employees and caregivers are given the opportunity to discuss disagreements and concerns with licensing staff. If the concerns are not resolved, the operation may request an administrative review.

Technical Assistance

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

The Child Care Licensing section of the DFPS web site also has a Technical Assistance Library. The Technical Assistance Library allows you to view or download articles and information about a variety of topics related to child care. The DFPS Web site is www.dfps.state.tx.us.

A feature of the minimum standards is the provision of additional information as contained in boxes following certain standards. This information is not a necessary component of meeting standards, but rather it is provided to help you meet the standards in a way best suited for your operation.

Investigations

When a report to Licensing alleges abuse or neglect, standards deficiency, or a violation of law or rule, licensing staff must investigate the report, notify the operation of the investigation, and provide a written report to the operation of the investigation results within prescribed time frames.

Your Rights and Entitlements

Waivers and Variances

If an operation is unable to comply with a standard for economic reasons, or wishes to meet the intent of a standard in a way that is different from what the standard specifies, a waiver or variance of the standard may be requested. The request is made in writing to the operation's assigned Licensing Representative.

Administrative Review

If an operation disagrees with a Licensing decision or action, the operation may request an administrative review. The operation is given an opportunity to show compliance with applicable law, rule, minimum standards, license restrictions and/or license conditions.

Appeals

An operation may request an appeal hearing on a Licensing decision to deny an application or revoke or suspend a permit or a condition placed on the permit after initial issuance.

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

For Further Information

It is important that operation employees and caregivers clearly understand the purpose of minimum standards and the reasons for Licensing's inspections. Do not hesitate to ask questions of licensing staff that will help you understand any aspect of Licensing. You may obtain information about licensing standards or procedures by calling your local Licensing office or by visiting the DFPS Web site at www.dfps.state.tx.us.

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

Chapter 744, Title 40, Social Services & Assistance, Part 19, Dept. of Family and Protective Services

Subchapter A, Purpose and Definitions

§744.101. What is the purpose of this chapter?

Subchapter A, Purpose and Definitions
September 2010

No Weight

The purpose of this chapter is to set forth the minimum standards that apply to operations exclusively providing before and after-school care services as defined by the Human Resources Code (HRC) §42.002(20) and school-age program services as defined by the HRC §42.002(22).

§744.103. What do certain pronouns mean in this chapter?

Subchapter A, Purpose and Definitions
September 2010

No Weight

The following words have the following meanings in this chapter:

(1) I, my, you, and your – An applicant or permit holder, unless otherwise stated.

(2) We, us, our, and Licensing – The Licensing Division of the Texas Department of Family and Protective Services (DFPS).

§744.105. What do certain words and terms mean in this chapter?

Subchapter A, Purpose and Definitions
December 2012

No Weight

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

(1) Activity space – An area or room used for children's activities, including areas separate from a group's classroom.

(2) Administrative and clerical duties – Duties that involve the management of an operation, such as bookkeeping, enrolling children, answering the telephone, and collecting fees.

(3) Admission – The process of enrolling a child in an operation. The date of admission is the first day the child is physically present at the operation.

(4) Adult – A person 18 years old and older.

(continued)

(5) Age-appropriate – Activities, materials, curriculum, and environment that are developmentally consistent with the chronological age of the child being served.

(6) Attendance – When referring to a child's attendance, the physical presence of a child at the operation on any given day or at any given time, as distinct from the child's enrollment in the operation.

(7) Before or After-school program – An operation that provides care before and after or before or after the customary school day and during school holidays, for at least two hours a day, three days a week, to children who attend pre-kindergarten through grade six.

(8) Caregiver – A person whose duties include the supervision, guidance, and protection of a child. As used in this chapter, the term means a person who meets the minimum education, work experience, and training qualifications required under Subchapter D of this chapter (relating to Personnel).

(9) Caregiver-initiated activities – Activities that are directed by or chosen by the caregiver.

(10) Certified Child-Care Professional Credential – A credential given to a person working directly with children based on his assessed competency in several areas of child care and child development.

(11) Certified lifeguard – A person who has been trained in life saving and water safety by a qualified instructor, from a recognized organization which awards a certificate upon successful completion of the training. The certificate is not required to use the term "lifeguard," but the permit holder must be able to document that the certificate represents the type of training described.

(12) Child Development Associate Credential – A credential given to staff working directly with children based on his assessed competency in several areas of child care and child development.

(13) Child-initiated activities – Activities that a child chooses on the child's own initiative and that foster the child's independence. Child-initiated activities require equipment, materials, and supplies to be within a child's reach.

(14) Child passenger safety seat system – A child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.

(15) Corporal punishment – The infliction of physical pain on a child as a means of controlling behavior. This includes, but is not limited to, spanking, hitting, slapping, thumping, or rapping a child.

(16) Creative activities – Activities that encourage a child to use his imagination. Creative activities include, but are not limited to, dramatic play, stories and books, science and nature activities, and music and art activities.

(17) Critical illness – An illness requiring the immediate attention of a health-care professional.

(18) Days – Calendar days, unless otherwise stated.

(continued)

(19) Director – An adult you designate to have daily, on-site responsibility for your operation, including maintaining compliance with the minimum standards and Licensing laws. As this term is used in this chapter, a director may be an operation director, program director, or site director, unless the context clearly indicates otherwise.

(20) Enrollment – The list of names or number of children who have been admitted to attend an operation for any given period of time. The number of children enrolled in an operation may vary from the number of children in attendance on any given day.

(21) Entrapping equipment – A component or group of components on equipment that forms angles or openings that could trap a child's head by being too small to allow the child's body to pass through or large enough for the child's body to pass through, but too small to allow the child's head to pass through.

(22) Field trips – Activities conducted away from the operation.

(23) Food service – The preparation or serving of meals or snacks.

(24) Frequently – More than two times in a 30-day period.

(25) Garbage – Waste food or items that when deteriorating cause offensive odors and attract rodents, insects, and other pests.

(26) Group activities – Activities that allow children to interact with others in large or small groups. Group activities include, but are not limited to, storytelling, show and tell, organized games, and singing.

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

(28) Health-care professional – A licensed physician, licensed registered nurse with appropriate advanced practice authorization from the Texas Board of Nurse Examiners, a licensed vocational nurse (LVN), licensed registered nurse (RN), or other licensed medical personnel providing health care to the child within the scope of his license. This does not include medical doctors or medical personnel not licensed to practice in the United States.

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

(30) Inflatable – An amusement ride or device, consisting of air-filled structures designed for use, as specified by the manufacturer, that may include but not be limited to bounce, climb, slide, or interactive play. They are made of flexible fabric, are kept inflated by continuous air flow by one or more blowers, and rely upon air pressure to maintain their shape.

(31) Janitorial duties – Those services that involve cleaning and maintenance above that which is required for the continuation of the child-care operation. Cleaning and maintenance include such duties as cleansing carpets, washing cots, sweeping, vacuuming, or mopping a classroom.

(continued)

(32) Multi-site operations – Child-care facilities with separate permits that share the same governing body, and may have centralized business functions, record keeping, and leadership.

(33) Natural environment – Settings that are natural or normal for all children of an age group without regard to ability or disability. For example, the primary natural group setting for a school-age child with a disability would be a play group or program, or whatever setting exists for school-age children without disabilities.

(34) Operation director – A director at your operation who is not supervised by a program director. An operation that has an operation director cannot have a program director or a site director.

(35) Operation location – The street address of the operation and the lot or lots on which the building or buildings are located.

(36) Pre-service training – Training given to a person who has no previous experience in regulated child-care operations, and relevant training in specified skills development offered by the operation.

(37) Program – The services and activities provided by an operation.

(38) Program director – A director who oversees your program at multiple operations and supervises a site director at each operation.

(39) Regularly – On a recurring, scheduled basis.

(40) Safety belt – A lap belt and any shoulder straps included as original equipment on or added to a vehicle.

(41) School-age child – A child who is five years of age and older, and who will attend school at or away from the operation in August or September of that year.

(42) School-age program – An operation that provides supervision and recreation, skills instruction, or skills training for at least two hours a day and three days a week to children who attend pre-kindergarten through grade six. A school-age program operates before or after the customary school day and may also operate during school holidays, the summer period, or any other time when school is not in session.

(43) Single-use area – Area not routinely used for children's activities, such as a bathroom, hallway, storage room, cooking area of a kitchen, swimming pool, and storage building.

(44) Site director – A director who has on-site responsibility at a specific operation but who is supervised by a program director.

(45) Special care needs – A child with special care needs is a child who has a chronic physical, developmental, behavioral, or emotional condition and who also requires assistance beyond that required by a child generally to perform tasks that are within the typical chronological range of development, including but not limited to, movement of large and/or small muscles, learning, talking, communicating, self-help, social, emotional, seeing, hearing, and breathing.

(46) State or local fire marshal – A fire official designated by the city, county, or state government.

(continued)

(47) State or local sanitation official – A sanitation official designated by the city, county, or state government.

(48) Universal precautions – An approach to infection control where all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other blood-borne pathogens.

(49) Water activities – Related to the use of splashing pools, wading pools, swimming pools, or other similar bodies of water.

Additional definitions may be found in Appendix I, 40 TAC, Chapter 745, Subchapter A Precedence and Definitions

§744.107. What types of operations do these minimum standards apply to?

Subchapter A, Purpose and Definitions
September 2010

No Weight

The minimum standards in this chapter apply to the following types of operations:

(1) All child-care facilities licensed on or after September 1, 2010, to provide before and after-school care program services exclusively;

(2) All child-care facilities licensed on or after September 1, 2010, to provide school-age program services exclusively; and

(3) All child-care facilities licensed before September 1, 2010, as a licensed child-care center exclusively providing before-school and after-school program services or school-age program services on or after September 1, 2010, will be required to amend their permit to reflect that they are subject to the minimum standards in this chapter. This must be completed no later than September 1, 2011.

§744.109. Who is responsible for complying with these minimum standards?

Subchapter A, Purpose and Definitions
September 2010

Medium High

You, the permit holder, must ensure compliance with all minimum standards in this chapter at all times, with the exception of those minimum standards identified for specific types of child-care programs or activities that your operation does not offer. For example, if we license you to provide care for school-age children exclusively, you would not be responsible for complying with rules regarding pre-kindergarten children; however, you must comply with all other minimum standards.

Subchapter B, Administration and Communication

Division 1, Permit Holder Responsibilities

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

Subchapter B, Administration and Communication
Division 1, Permit Holder Responsibilities
March 2012

Medium High You are responsible for the following:

High (1) Developing and implementing your operational policies, which must comply with or exceed the minimum standards specified in this subchapter;

Medium High (2) Developing written personnel policies, including job descriptions, job responsibilities and requirements, and making provisions for training;

Medium High (3) Making provisions for training that comply with Division 4, Subchapter D of this chapter (relating to Personnel);

Medium High (4) Designating an operation director, program director, or site director, as applicable, who meets minimum standard qualifications as specified in Subchapter D of this chapter (relating to Personnel);

Medium High (5) Reporting and ensuring your employees and volunteers report suspected abuse, neglect, or exploitation directly to DFPS and may not delegate this responsibility, as required by the Texas Family Code §261.101;

Low (6) Ensuring all information related to background checks is kept confidential as required by the Human Resources Code §40.005(d) and (e);

Medium (7) Ensuring parents have the opportunity to visit the operation any time during your hours of operation to observe their child, program activities, the building, grounds, and the equipment without having to secure prior approval;

Low (8) Maintaining liability insurance as required by the Human Resources Code, §42.049, if we license you to care for 13 or more children;

Medium High (9) Complying with the child-care licensing law found in Chapter 42 of the Human Resources Code, the applicable minimum standards, and other applicable rules in the Texas Administrative Code; and

Medium High (10) Reporting to DFPS any Department of Justice substantiated complaints related to Title III of the American with Disabilities Act, which applies to commercial public accommodations.

(continued)

- *Children are at risk when adults responsible for them do not have clearly delineated roles and responsibilities, which can be identified in job descriptions and job responsibilities.*
- *Disclosure of confidential background check information is a Class A misdemeanor. Therefore, you may want to keep background check information in a location separate from other staff records. You may choose to keep the information in a locked space. However, the information must be accessible during an inspection.*
- *You are responsible for ensuring that the contact email address that is used for correspondence between your operation and Licensing, which may include background check results, is only accessible to the appropriate person(s).*

Division 2, Required Notifications

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

Subchapter B, Administration and Communication
Division 2, Required Notifications
September 2010

You must notify us in writing before:

Medium (1) Changing location;

Medium (2) Adding to or reducing indoor or outdoor space;

Medium (3) Reducing the number of toilets or sinks;

Medium High (4) Adding a swimming pool or other permanent body of water;

Medium (5) Changing the age range of children to be cared for;

Medium (6) Changing the hours, days, or months of operation;

Medium (7) Offering new services relating to minimum standards found in this chapter, such as transportation or field trips;

Medium (8) Planned closure of five consecutive days or more, during designated hours of operation, when the operation is not caring for children, with the exception of nationally recognized holidays; or

Low (9) Going out of business.

As events occur or changes are made to the program, health and safety conditions may change. Licensing may need to verify that minimum standard rules related to the changes are in compliance to ensure the continuing safety of children in care.

§744.303. What changes must I notify Licensing of regarding the governing body, a director, or the program at my operation?

Subchapter B, Administration and Communication
Division 2, Required Notifications
September 2010

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

Medium (1) Sale or transfer of the operation's ownership (including but not limited to incorporation of an existing operation);

Medium Low (2) The governing body designee;

Low (3) The board chair for a corporate facility or other executive officer of the governing body;

Low (4) The address of the governing body or its designee; and

Medium High (5) A director.

- *A license cannot be bought, sold or transferred and is only valid for the location/address noted on the license.*
- *Governing body changes affect Licensing's ability to communicate in a timely manner with those who have ultimate responsibility for the program.*
- *It is important that DFPS know, in a timely manner, who has been designated as director in order to ensure that qualifications are met and the operation of the program is not at risk.*

§744.305. What other situations require notification to Licensing?

Subchapter B, Administration and Communication
Division 2, Required Notifications
December 2012

(a) You must notify us as soon as possible, but no later than two days after:

Medium High (1) Any occurrence that renders all or part of your operation unsafe or unsanitary for a child, for example loss of electricity or water, or weather related damage that prevents the safe use of the operation;

Medium High (2) Injury to a child in your care that requires treatment by a health-care professional;

Medium High (3) You become aware that an employee or child in your care contracts an illness deemed notifiable by the Department of State Health Services (DSHS) as specified in 25 TAC Chapter 97, Subchapter A (relating to Control of Communicable Diseases);

Medium High (4) A person for which you are required to request a background check under Chapter 745, Subchapter F of this title (relating to Background Checks) is arrested or charged with a crime;

(continued)

High (5) The occurrence of any other situation which places a child at risk, such as forgetting a child in an operation vehicle or on the playground or not preventing a child from wandering away from the operation unsupervised; and

Medium High (6) A new individual becomes a controlling person at your operation, or an individual that was previously a controlling person ceases to be a controlling person at your operation.

High (b) You must notify us immediately if a child dies while in your care.

Examples of occurrences that may render an operation unsafe or unhealthy include sewer backups, flood, fire or storm damage, or the lack of running water. Notifying parents enables them to protect their children from high-risk situations.

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

Subchapter B, Administration and Communication
Division 2, Required Notifications
September 2010

(a) After you ensure the safety of the child, you must notify the parent immediately after a child:

Medium High (1) Is injured and the injury requires medical attention by a health-care professional;

Medium (2) Has a sign or symptom requiring exclusion from the operation as specified in Subchapter K of this chapter (relating to Health Practices);

Medium High (3) Has been involved in any situation that placed the child at risk. For example, a caregiver forgetting a child in an operation vehicle or on the playground or not preventing a child from wandering away from the operation unsupervised; or

Medium High (4) Has been involved in any situation that renders the operation unsafe, such as a fire, flood, or damage to the operation as a result of severe weather.

Medium (b) You must notify the parent of less serious injuries when the parent picks the child up from the operation. Less serious injuries include, but are not limited to, minor cuts, scratches, and contusions requiring first-aid treatment by employees.

Medium (c) You must notify all parents of children in the operation in writing and within 48 hours of becoming aware that a child in your care or an employee has contracted a communicable disease deemed notifiable by the Department of State Health Services as specified in 25 TAC Chapter 97, Subchapter A (relating to Control of Communicable Diseases).

Medium Low (d) You must provide written notice within 48 hours to the parents of all children in a group when there is an outbreak of lice or other infestation in the group. You must either post this notice in a prominent and publicly accessible place where parents can easily view it or send an individual note to each parent.

Communication between caregivers and parents is essential to both the safe and healthy operation of the program and to the parent's ability to assess the care their children are receiving.

Division 3, Required Postings

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

Subchapter B, Administration and Communication
Division 3, Required Postings
September 2016

You must post the following items:

Medium (1) Your license;

Medium (2) The letter or form from the most recent Licensing inspection or investigation;

Medium (3) The Licensing notice *Keeping Children Safe;*

Medium High (4) Your emergency evacuation and relocation diagram as specified in §744.3561 of this title (relating to Must I have an emergency evacuation and relocation diagram?);

Medium (5) The daily menu, including all snacks and meals served by the operation;

Medium Low (6) The *Licensing Parent Notification Poster*;

Low (7) Telephone numbers specified in §744.405 of this title (relating to What telephone numbers must I post and where must I post them?);

Medium High (8) A list of each child's food allergies that require an emergency plan, as specified in §744.2669 of this title (relating to When must I have a food allergy emergency plan for a child?); and

Medium (9) Any other Licensing notices with specific instructions to post the notice.

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

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

Subchapter B, Administration and Communication
Division 3, Required Postings
September 2016

Medium (a) Unless otherwise specified, the items specified in §744.401 of this title (relating to What items must I post at my operation at all times?) must be available by posting or placing in a binder, in a prominent and publicly accessible place where employees, parents, and others may easily view them at all times.

Medium-High (b) For a list of each child's food allergies that require an emergency plan:

(1) You must post the list during all hours of operation where you prepare food and in each room where the child may spend time;

(2) The posting must be in a place where employees may easily view the list, and if the a parent requests it, you must maintain privacy for the child (for example, a clipboard hung on the wall with a cover sheet over the list); and

(3) You must ensure that all caregivers and employees who prepare and serve food are aware of each child's food allergies.

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

Subchapter B, Administration and Communication
Division 3, Required Postings
September 2010

Medium (a) You must post the following telephone numbers:

Medium (1) 911 or, if 911 is not available in your area, the numbers for:

(A) Emergency medical services;

(B) Law enforcement; and

(C) Fire department;

Medium (2) Poison control;

Medium (3) DFPS child abuse hotline;

Medium (4) Nearest Licensing office telephone number and address; and

Medium (5) The operation name, address, and telephone number.

Medium (b) You must post the telephone numbers next to each telephone in the operation. If the operation uses cordless or cellular phones, these same numbers must be posted in a prominent place on the wall near the doorway in each room of the operation, or on the phone handset.

Medium (c) If you use cellular phone service at your operation, you must ensure dialing 911 directs emergency personnel to your operation location.

- *Readily available phone numbers help to ensure prompt response/action in an emergency.*
- *If you call 911 from a cellular phone you should remember the following:*
  - *Tell the emergency operator the location of the emergency right away.*
  - *Give the emergency operator your cellular phone number so that, if the call gets disconnected, the operator can call you back.*
  - *If your cellular phone is not "initialized" (meaning you do not have a contract for service with a wireless service provider), and your emergency call gets disconnected, you must call the emergency operator back because the operator does not have your telephone number and cannot contact you.*

Division 4, Operational Policies

§744.501. What written operational policies must I have?

Subchapter B, Administration and Communication
Division 4, Operational Policies
June 2014

Medium You must develop written policies that at a minimum address each of the following:

Medium (1) Hours, days, and months of operation;

Medium (2) Procedures for release of children;

Medium (3) Illness and exclusion criteria;

Medium (4) Procedures for dispensing medication or a statement that medication is not given;

Medium (5) Procedures for handling medical emergencies;

Medium (6) Procedures for parental notifications;

Medium High (7) Discipline and guidance practices;

Medium (8) Meals and food service practices;

Medium (9) Immunization requirements for children;

Low (10) Tuberculin testing requirements;

Medium (11) Enrollment procedures, including how and when parents will be notified of policy changes;

Medium (12) Transportation, if applicable;

Medium (13) Water activities, if applicable;

Medium (14) Field trips, if applicable;

Medium (15) Animals, if applicable;

Medium (16) The procedures for parents to review and discuss with the director any questions or concerns about the policies and procedures of the operation;

Medium Low (17) The procedures for parents to visit the operation at any time during your hours of operation to observe their child, program activities, and the building, grounds, and equipment without having to secure prior approval;

Medium Low (18) The procedures for parents to participate in the operation's activities;

Medium (19) The procedures for parents to review a copy of the minimum standards and the operation's most recent Licensing inspection report;

Medium (20) Instructions on how a parent may contact the local Licensing office, DFPS child abuse hotline, and DFPS website;

(continued)

High (21) Emergency preparedness plan;

Medium (22) Procedures for conducting health checks, if applicable; and

Medium (23) Vaccine-preventable diseases for employees, unless your operation is in the home of the permit holder, the director, or a caregiver. The policy must address the requirements outlined in §744.2581 of this title (relating to What must a policy for protecting children from vaccine-preventable diseases include?).

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

Subchapter B, Administration and Communication
Division 4, Operational Policies
September 2010

Medium Yes. Parents must sign an enrollment agreement or other similar document that includes at least the operational policies listed in this division on or before the date of admission. You must keep this signed document in the child's record or at least one for each family, if siblings are enrolled at the same time.

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

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

Subchapter B, Administration and Communication
Division 4, Operational Policies
September 2010

Medium You must notify parents in writing of any changes to your operational policies and enrollment agreement. At least one copy of the updated operational policies must be signed and dated for each family. You must keep the updated information in the child's record.

§744.507. Must I provide a copy of my operational policies to my employees?

Subchapter B, Administration and Communication
Division 4, Operational Policies
September 2010

Medium Yes. You must share a copy of your operational policies with all employees as specified in Subchapter C of this chapter (relating to Record Keeping).

Subchapter C, Record Keeping

Division 1, Records of Children

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

Subchapter C, Record Keeping
Division 1, Records of Children
September 2010

Medium (a) All children's records must be immediately accessible to caregivers during your hours of operation for use in an emergency.

Medium (b) Parents have the right to access their own child's record during a parent conference with the caregiver or director.

Medium (c) All children's records are subject to review and/or reproduction by Licensing upon request during your hours of operation.

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

Subchapter C, Record Keeping
Division 1, Records of Children
March 2012

Medium (a) You must maintain the following records for each child enrolled in your operation:

Medium (1) An enrollment agreement specified in §744.503 of this title (relating to Must I provide parents with a copy of my operational policies?);

Medium (2) Admission information;

Medium (3) Immunization records;

Low (4) Tuberculin testing information, if applicable;

Medium (5) Licensing *Incident/Illness Report* form;

Medium High (6) Sign-in and sign-out tracking information as specified in §744.627 of this title (relating to Must I have a system for signing children in and out of my care?).

Medium (7) Medication administration records; and

Medium (8) A copy of any health-care professional recommendations or orders for providing specialized medical assistance to the child.

Low (b) These records must at a minimum be kept at the operation and be available during your hours of operation for the following periods of time:

(1) Medication administration records for three months after administering the medication;

(2) Health-care professional recommendations or orders for three months after the health-care professional has indicated that the specialized medical assistance is no longer needed; and

(3) All other records noted in subsection (a) of this section for three months after the child's last day in care.

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

Subchapter C, Record Keeping
Division 1, Records of Children
September 2016

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

Medium High (1) The child's name and birth date;

Medium High (2) The child's home address and telephone number;

Medium Low (3) Date of the child's admission to the operation;

Medium High (4) Name and address of parent(s);

Medium (5) Telephone numbers at which parent(s) can be reached while the child is in care;

Medium High (6) Name, address, and telephone number of another responsible individual (friend or relative) who should be contacted in an emergency when the parent cannot be reached;

High (7) Names and telephone numbers of persons other than a parent to whom the child may be released;

Low (8) Permission for transportation, if provided;

Low (9) Permission for field trips, if provided;

Low (10) Permission for participation in water activities, if provided;

Medium High (11) Name, address, and telephone number of the child's physician or an emergency-care facility;

Medium High (12) Authorization to obtain emergency medical care and to transport the child for emergency medical treatment;

Medium High (13) A statement of the child's special problems or special care needs. This includes, but is not limited to, allergies, existing illness, previous serious illness and injuries, hospitalizations during the past 12 months, and any medications prescribed for continuous, long-term use;

Medium (14) The name and telephone number of the school that a school-age child attends, unless the operation is located at the child's school;

Medium (15) Permission for a school-age child to ride a bus, walk to or from school or home, or to be released to the care of a sibling under 18 years old, if applicable; and

Medium-High (16) A completed food allergy emergency plan for the child, if applicable.

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

§744.607. Must the child's parent sign the admission information?

Subchapter C, Record Keeping
Division 1, Records of Children
September 2010

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

§744.609. Must I update the admission information?

Subchapter C, Record Keeping
Division 1, Records of Children
September 2010

Low — (a) Yes. You must develop a procedure for regularly updating the admission information, including information on special care needs.

Low — (b) The parent must sign and date the updated information. You may use a new form or have the parent initial and date amendments to a previously signed form. You must keep the updated information in the child's record.

> *The child-care operation needs to know where to contact parents and needs to be aware of any changes in care required by the child.*
>
> - *Routine updating of records facilitates communication between the parent and the child-care operation.*
> - *It also ensures that accurate information is available during an emergency so that the child's needs can be met.*

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

Subchapter C, Record Keeping
Division 1, Records of Children
September 2010

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

§744.613. What immunizations are children in my care required to have?

Subchapter C, Record Keeping
Division 1, Records of Children
September 2010

Medium High — (a) Each child enrolled or admitted to your operation must meet applicable immunization requirements specified by the Texas Department of State Health Services as specified in 25 TAC Chapter 97, Subchapter B (relating to Immunization Requirements in Texas Elementary and Secondary Schools and Institutions of Higher Education).

Medium — (b) Except as otherwise provided in this division, all immunizations required for the child's age must be completed by the date of admission.

§744.615. Are there exemptions for immunization requirements?

Subchapter C, Record Keeping
Division 1, Records of Children
September 2010

No Weight

Yes; however, exemptions for immunization requirements must meet criteria specified by the Department of State Health Services rules in 25 TAC §97.62 (relating to Exclusions from Compliance).

§744.617. Where can I find more information on immunizations?

Subchapter C, Record Keeping
Division 1, Records of Children
September 2010

No Weight

You can find more information in the Department of State Health Service's rules at 25 TAC Chapter 97, Subchapter B (relating to Immunization Requirements in Texas Elementary and Secondary Schools and Institutions of Higher Education). You can access it on the Department of State Health Services Internet website at: www.dshs.state.tx.us/immunize, or you may obtain a copy from Licensing or your local or state health department.

§744.619. When must I have the child's immunization record on file?

Subchapter C, Record Keeping
Division 1, Records of Children
September 2010

Medium

You must have a copy of the child's completed immunization record by the date of admission, except as otherwise provided in this division.

§744.621. May I admit a child who is not current on immunizations?

Subchapter C, Record Keeping
Division 1, Records of Children
September 2010

Low

Yes; however, you must comply with the rules for provisional admittance established by the Department of State Health Services rules in 25 TAC §97.66 (relating to Provisional Enrollment for (Non-Higher Education; Non-Veterinary) Students)).

§744.623. What documentation is acceptable for immunization records?

Subchapter C, Record Keeping
Division 1, Records of Children
September 2010

Acceptable documentation includes:

Medium

(1) A signed statement from the child's parent that the child's immunization record is current and on file at the pre-kindergarten or school that the child attends. The statement must be dated and include the name, address, and telephone number of the pre-kindergarten or school listed in the statement; or

(continued)

Medium (2) An official immunization record generated from a state or local health authority, such as a registry, or a record received from school officials including a record from another state, that includes the child's name and birth date; the number of doses and vaccine type; the month, day, and year the child received each vaccination; and the signature or stamp of the physician or other health-care professional who administered the vaccine.

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

Subchapter C, Record Keeping
Division 1, Records of Children
September 2010

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

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

Subchapter C, Record Keeping
Division 1, Records of Children
September 2010

Medium High (a) Yes. You must have a system for tracking each child coming and going from your operation throughout the day. This tracking system must include the name of each child, the date, time of arrival and time of departure, and employee or parent's initials or other unique identification code.

Medium High (b) All caregivers must have access to the tracking system to determine which children are in care during their work shift, changes in caregivers, and emergency evacuations.

Medium (c) You must keep tracking information for the previous three months and make it available to Licensing for review upon request.

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

Division 2, Records of Accidents and Incidents

§744.701. Must I keep a written record of accidents and incidents that occur at my operation?

Subchapter C, Record Keeping
Division 2, Records of Accidents and Incidents
September 2010

Yes. You must use a Licensing *Incident/Illness Report* form, or other form containing at least the same information, to record information regarding:

Medium (1) Injuries or illness that required medical attention by a health-care professional while the child is in care; and

Medium (2) Any other situation that placed a child at risk, such as forgetting a child in an operation's vehicle or not preventing a child from wandering away from the operation unsupervised.

§744.703. Where can I get a copy of Licensing's *Incident/Illness Report* form?

Subchapter C, Record Keeping
Division 2, Records of Accidents and Incidents
September 2010

No Weight You may obtain a copy of the form from Licensing staff or on the DFPS website at: http://www.dfps.state.tx.us/Child_Care/Information_for_Providers/cclforms-dc.asp.

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

Subchapter C, Record Keeping
Division 2, Records of Accidents and Incidents
September 2010

Low Yes. The director or person in charge must sign and date the completed report.

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

Subchapter C, Record Keeping
Division 2, Records of Accidents and Incidents
September 2010

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

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

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

Subchapter C, Record Keeping
Division 2, Records of Accidents and Incidents
September 2010

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

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

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

Subchapter C, Record Keeping
Division 3, Records That Must be Kept on File at the Operation
September 2010

You must maintain and make the following records available for our review upon request, during your hours of operation. Paragraphs (18), (19), and (20) of this section are optional, but if provided, allow Licensing to avoid duplicating the evaluation of standards that have been evaluated by other state agencies within the past year:

Medium — (1) Children's records, as specified in Division 1 of this subchapter (relating to Records of Children);

Medium — (2) Personnel and training records, unless on file at a central administrative location;

Medium — (3) Licensing Director's Certificate;

Medium — (4) Attendance records for employees;

Medium — (5) Children's program activity plans for each age group in care for more than four hours per day;

Medium — (6) Verification of liability insurance or notice of unavailability, if applicable;

Medium High — (7) Proof of request for all background checks required by Chapter 745, Subchapter F of this title (relating to Background Checks);

Medium — (8) Daily menus for food prepared or served by the operation;

Medium High — (9) Medication records;

Medium — (10) Playground maintenance checklists;

Medium — (11) Pet vaccination records, if applicable;

Medium — (12) Fire safety documentation for emergency drills, fire extinguishers, and smoke detectors;

Medium — (13) Most recent Licensing inspection report, letter, or notice requiring posting;

Medium — (14) Most recent fire inspection report, if applicable;

(continued)

Medium (15) Most recent sanitation inspection report, if applicable;

Medium (16) Most recent gas inspection report, if applicable;

Medium Low (17) Most recent Department of State Health Services immunization compliance review form, if applicable;

Medium Low (18) Most recent Department of Agriculture Child and Adult Care Food Program (CACFP) report, if applicable;

Low (19) Most recent local workforce board Child-Care Services contractor inspection report, if applicable;

Medium Low (20) Record of pest extermination, if applicable;

Medium (21) Written approval from the fire marshal to provide care above or below ground level, if applicable; and

Medium Low (22) System to track when a child's care begins and ends daily.

Proof of a background check request may include:

- *a paper or electronic copy of form 2971 if the background check was submitted as part of the operation's application for licensure*
- *a paper or electronic copy of a background check cleared email that indicates that the person has had a background check conducted by the operation within the past 24 months*
- *a paper copy of the operation's Online Background Check History page that indicates that the person's background check request was submitted within the past 24 months*
- *the operation may also log into its online account and access its Online Background Check History page to demonstrate that a person has been submitted for a background check within the past 24 months.*

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

Subchapter C, Record Keeping
Division 3, Records That Must be Kept on File at the Operation
September 2010

Medium Low (a) You must keep records at the operation for at least three months from the date the record was created, unless otherwise stated in this chapter.

Medium Low (b) You must keep training records for each current director and caregiver for at least the current and last full training year.

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

Subchapter C, Record Keeping
Division 3, Records That Must be Kept on File at the Operation
September 2010

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

Medium (1) If you keep a combination of paper and electronic records, you must develop procedures that address what must be in the external paper file and what can be in the electronic file;

Medium (2) Children's records must be accessible to all caregivers during their work shift, changes in caregivers, and emergency evacuations; and

Medium Low (3) All records must be available during your hours of operation for review by Licensing upon request.

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

Subchapter C, Record Keeping
Division 4, Personnel Records
September 2016

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

Medium Low (1) Documentation showing the dates of the first and last day on the job;

Medium (2) Documentation showing how the employee meets the minimum age and education qualifications, if applicable;

Low (3) A copy of a health card or physician's statement verifying the employee is free of active tuberculosis, if required by the regional Department of State Health Services TB program or local health authority;

Medium Low (4) A notarized Licensing *Affidavit for Applicants for Employment* form as specified in Human Resources Code, §42.059;

Medium (5) A record of training hours;

No Weight (6) A statement signed and dated by the employee showing he has received a copy of the operation's:

Medium (A) Operational policies; and

Medium Low (B) Personnel policies;

Medium (7) Proof of request for DFPS background checks;

Medium (8) A copy of a photo identification;

Medium (9) A copy of a current driver's license for each person who transports a child in care; and

(continued)

Medium (10) A statement signed and dated by the employee verifying the date the employee attended training during orientation that includes an overview regarding the prevention, recognition, and reporting of child abuse and neglect, as outlined in §744.1303 of this title (relating to What must orientation for employees at my operation include?).

§744.903. What additional personnel records must I maintain for a director?

Subchapter C, Record Keeping
Division 4, Personnel Records
September 2010

Medium Low In addition to the personnel records that must be maintained for all operation personnel, you must have the original Licensing *Director's Certificate* for your director. If a director is also the permit holder, a statement showing the director has received a copy of the operational policies and personnel policies is not required.

§744.905. Must I maintain attendance records or record of hours worked on my employees?

Subchapter C, Record Keeping
Division 4, Personnel Records
September 2010

Medium Yes. You must maintain a record of attendance or other record indicating all days and hours worked for each director, employee, caregiver, substitute, and volunteer who is regularly or frequently at the operation during your hours of operation.

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

Subchapter C, Record Keeping
Division 4, Personnel Records
September 2010

Medium Low (a) You must keep all records for at least three months after an employee's last day on the job, with the exception of annual training records.

Medium Low (b) You must maintain annual training records for current personnel for the last full training year and current training year.

Medium Low (c) You must keep personnel records and attendance records for employees at the operation or in a central administrative location, provided they are immediately available for review during your hours of operation.

§744.909. May Licensing access my personnel records?

Subchapter C, Record Keeping
Division 4, Personnel Records
September 2010

Medium Yes. Licensing staff must be given immediate access to all personnel records that document compliance with minimum standards. You must allow Licensing to photocopy these records if requested.

Subchapter D, Personnel

Division 1, Director

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

Subchapter D, Personnel
Division 1, Director
September 2010

Medium Low

(a) You are required to designate an adult that has the daily, on-site responsibility for your operation, including maintaining compliance with the minimum standards and Licensing laws. You must notify Licensing of changes in directors as specified in §744.303 of this title (relating to What changes must I notify Licensing of regarding the governing body, a director, or the program at my operation?).

No Weight

(b) There are three types of recognized directors in a before and after-school or school-age program:

(1) An operation director, who is responsible for your operation without the supervision of a program director;

(2) A program director, who oversees your program at multiple operations and supervises a site director at each operation;

(3) A site director, who has the daily responsibility for a specific operation but is supervised by a program director.

No Weight

(c) In this subchapter, the term director applies to all types of directors listed in subsection (b) of this section, unless otherwise specified.

A director plays a crucial role in ensuring the smooth day-to-day operation of the program by balancing business concerns with what's good for children and by providing leadership and direction to the caregivers responsible for providing safe and healthy care for the children.

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

Subchapter D, Personnel
Division 1, Director
September 2010

Medium (a) If you have multiple operations under the same governing body, you must designate a director at each operation. However, a site director may share his responsibilities at an operation with a program director, provided the operation maintains substantial compliance with minimum standards and other relevant law.

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

Medium (1) Nine site directors at multiple before and after-school care programs operated by the same governing body.

Medium (2) Five site directors at multiple school age programs or at a combination of school age programs and before and after-school programs operated by the same governing body.

§744.1005. What are the director's responsibilities?

Subchapter D, Personnel
Division 1, Director
September 2010

(a) Your director must ensure:

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

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

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

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

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

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

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

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

Subchapter D, Personnel
Division 1, Director
September 2010

No Weight

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

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

Subchapter D, Personnel
Division 1, Director
September 2010

Medium Low

You may designate more than one operation director if each director:

(1) Meets the qualifications specified in this division; and

(2) Receives a written job description that includes his job responsibilities.

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

Subchapter D, Personnel
Division 1, Director
September 2010

Medium High

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

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

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

Subchapter D, Personnel
Division 1, Director
September 2010

Medium (a) Yes. You or your director must designate a qualified caregiver to be in charge of the operation anytime the director is away from the operation during your hours of operation. If your operation has a program director and a site director, the written plan designating their responsibilities must address whether either or both directors may designate a qualified caregiver to be in charge of your operation in the site director's absence.

Medium (b) Designated individuals must:

Medium (1) Know they are in charge and for how long;

Medium (2) Know their responsibilities while in charge;

Medium (3) Have access to all essential information to communicate with parents and state and local authorities as needed; and

Medium High (4) Have the authority to direct the operation in compliance with minimum standards.

Medium (c) You or your director must ensure that all other employees know who is in charge in the director's absence.

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

Subchapter D, Personnel
Division 1, Director
September 2010

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

Education	Experience
(1) A bachelor's degree with six college credit hours in management,	and at least one year of experience in a licensed operation or similar experience as specified in §744.1021 of this title (relating to What types of experience may count towards meeting director qualifications?);
(2) An associate's of applied science degree in child development or a closely related field with six college credit hours in child development and six college credit hours in management. A "closely related field" is any educational instruction pertaining to the growth, development, physical or mental care, or education of children ages birth through 13 years,	and at least two years of experience in a licensed operation or similar experience as specified in §744.1021 of this title;

(continued)

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

Low

(b) Options (4) and (6) in subsection (a) of this section require periodic renewal for the director to remain qualified.

Knowledge of good business practices and administration are essential for managing a school-age or before or after-school program. A director has an obligation to be prepared to hire and maintain employees, establish and maintain communication with parents, and ensure the health, safety and well-being of the children in her care.

§744.1017. What qualifications must a site director meet?

Subchapter D, Personnel
Division 1, Director
September 2010

Medium High

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

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

Medium

(b) Except as otherwise provided in this division, a site director of an operation that provides care exclusively for children five years old and older must be at least 18 years of age, while the site director of an operation that also provides care for children younger than five years must be at least 21 years of age.

(c) A site director may complete the required education during his first 90 days of employment, if:

Medium

(1) The site director completed at least half of the required education prior to his current employment as site director; and

Medium High

(2) The written plan required in §744.1005(b) of this title (relating to What are the director's responsibilities?) includes appropriate program director oversight until the required education is completed.

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

§744.1019. Are any directors exempt from the qualifications?

Subchapter D, Personnel
Division 1, Director
September 2010

No Weight (a) A current director who was a designated director of a DFPS licensed group day-care home before May 1, 1985, is not required to have a high school diploma or its equivalent**,** and is exempt from the requirements specified in §744.1015 of this title (relating to What qualifications must an operation director or a program director meet?) and §744.1017 of this title (relating to What qualifications must a site director meet?).

No Weight (b) A current director who was a designated director before September 1, 2003, of a DFPS licensed group day care home, school: grades kindergarten and above, kindergarten and nursery school, or drop-in care center is exempt from the requirements specified in specified in §744.1015 and §744.1017 of this title.

Low (c) If a current director under exemption changes jobs after September 1, 2010, he must meet director qualifications specified in this subchapter before being designated as a director in a new position.

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

Subchapter D, Personnel
Division 1, Director
September 2010

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

(1) Experience as a director, assistant director, or caregiver working directly with children, obtained in any operation regulated by DFPS, whether paid or unpaid;

(2) Experience as a director, assistant director, or caregiver working directly with children in a licensed or certified operation in another state or country;

(3) One year experience providing skill-based instruction or as a caregiver in a recreational or youth development program, where children in pre-kindergarten through grade six are in care for at least two hours a day, three days a week;

(4) One year of full-time classroom teaching in a public or private accredited school in grades pre-kindergarten through grade six, during a customary school year;

(5) Substitute or part-time classroom teaching in a public or private accredited school in grades pre-kindergarten through grade six, if the total length of time adds up to one year of full-time teaching during a customary school year; or

(6) One year of post-graduate study in child development, early childhood education, or a closely related field.

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

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

Subchapter D, Personnel
Division 1, Director
September 2010

No Weight

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

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

Subchapter D, Personnel
Division 1, Director
September 2010

Low

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

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

Subchapter D, Personnel
Division 1, Director
September 2010

Low

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

§744.1029. What are clock hours?

Subchapter D, Personnel
Division 1, Director
September 2010

Low

Clock hours may consist of documented attendance at:

(1) Seminars, workshops, conferences, and early childhood classes;

(2) Self-instructional programs; or

(3) Planned learning opportunities provided by consultants, a qualified director, or by a child-care association.

§744.1031. Must the trainer or provider of clock hours meet specific criteria?

Subchapter D, Personnel
Division 1, Director
September 2010

No Weight — We do not have specific criteria established for someone to be a trainer or provider of clock hours.

§744.1033. What are CEUs?

Subchapter D, Personnel
Division 1, Director
September 2010

Low — Continuing education units (CEUs) provide a standard unit of measure for adult education and training activities. One CEU equals ten clock hours of participation in an organized, continuing-education experience, under responsible, qualified direction and instruction. Although you may obtain a CEU in many of the same settings as clock hours, the CEU provider must meet the criteria established by the International Association for Continuing Education and Training to be able to offer the CEU.

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

Subchapter D, Personnel
Division 1, Director
September 2010

Low — You may only substitute clock hours or CEUs for required credit hours in child development and management. You may substitute 50 clock hours or five CEUs for each three college credit hours required in child development and/or management.

§744.1037. What kind of documentation must I submit to Licensing to show my director is qualified and when must I submit it?

Subchapter D, Personnel
Division 1, Director
September 2010

Low — (a) You must submit the following for each director at your operation:

Medium — (1) A completed Licensing *Personal History Statement* form specifying the education and experience of each designated director;

No Weight — (2) A completed Licensing *Request for Criminal History and Central Registry Check* form or proof a background check request was made online;

Medium — (3) A notarized Licensing *Affidavit for Applicants for Employment* form;

Medium Low — (4) A completed Licensing *Governing Body/Director Designation* form; and

(continued)

Medium (5) An original and current Licensing *Director's Certificate* form, or an original college transcript or original training certificates which verify the educational requirements; and complete dates, names, addresses, and telephone numbers which support the required experience. Original letters may be substituted for training certificates, provided they include the same information as specified in §744.1331 of this title (relating to What documentation must I provide to Licensing to verify that training requirements have been met?).

No Weight (b) You must submit the information to us:

Medium (1) As part of a new application for a permit; and

Medium (2) Within ten days of designating a new operation director, program director, or site director.

§744.1039. What documentation must I have to prove that the person received the clock hours or CEUs?

Subchapter D, Personnel
Division 1, Director
September 2010

Low You must have documentation specified in §744.1331 of this title (relating to What documentation must I provide to Licensing to verify that training requirements have been met?).

§744.1041. What documentation must I provide to Licensing to show that my director has acceptable child development and management education?

Subchapter D, Personnel
Division 1, Director
September 2010

Low If requested by Licensing, you must provide original transcripts or training certificates. Supporting documentation, such as credit course catalog descriptions, or a course syllabus or outline may also be requested by Licensing to assist in determining whether the course is recognized as child development or management.

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

Subchapter D, Personnel
Division 1, Director
September 2010

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

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

Subchapter D, Personnel
Division 1, Director
September 2010

No Weight

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

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

Subchapter D, Personnel
Division 1, Director
September 2010

No Weight

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

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

Subchapter D, Personnel
Division 1, Director
September 2010

No Weight

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

§744.1051. Will the director's certificate expire?

Subchapter D, Personnel
Division 1, Director
September 2010

No Weight

The director's certificate will have an expiration date, if the director was qualified under §744.1015(a) options (4) or (6) of this title (relating to What qualifications must an operation director or a program director meet?). Otherwise, the Licensing *Director's Certificate* will not expire.

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

Subchapter D, Personnel
Division 1, Director
September 2010

Low

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

§744.1055. What happens if I do not submit the documentation confirming the credential is current?

Subchapter D, Personnel
Division 1, Director
September 2010

Low

We will give you a deadline to submit the required documentation or to designate another qualified director. If your director allows the certificate to expire without submitting the required documentation and no longer meets requirements for a director, you violate minimum standards.

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

Subchapter D, Personnel
Division 1, Director
September 2010

Low

(a) If you can provide an original and current Licensing *Director's Certificate*, you will not be required to resubmit the information establishing qualifications.

Low

(b) If an original and current Licensing *Director's Certificate* is not available, or Licensing cannot verify the director is qualified, you must resubmit the information to us to determine if your designated director meets minimum director qualifications.

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

Subchapter D, Personnel
Division 1, Director
September 2010

No Weight

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

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

Subchapter D, Personnel
Division 1, Director
September 2010

No Weight Yes. We will issue a replacement *Director's Certificate*, if you submit your request to us in writing, specifying:

(1) The name and address of your operation;

(2) The name of the director for whom the replacement certificate is needed;

(3) The date we issued the original certificate; and

(4) The reason a replacement certificate is needed.

Division 2, Employees and Caregivers

§744.1101. What is the difference between an employee and a caregiver?

Subchapter D, Personnel
Division 2, Employees and Caregivers
September 2010

No Weight (a) An employee is any person employed by the operation, including caregivers, kitchen, office, or maintenance personnel; other personnel; a director.

No Weight (b) A caregiver is an employee counted in the child/caregiver ratio, whose duties include direct care, supervision, guidance, training, and the protection of children in care.

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

Subchapter D, Personnel
Division 2, Employees and Caregivers
September 2010

Medium Each employee who is regularly or frequently present while children are in care must:

No Weight (1) Meet the requirements in Chapter 745, Subchapter F of this title (relating to Background Checks);

Low (2) Have a current record of a tuberculosis examination (TB), showing he is free of contagious TB, if required by the Texas Department of State Health Services or local health authority;

Low (3) Complete a notarized Licensing *Affidavit for Applicants for Employment* form as specified in Human Resources Code, §42.059; and

Medium (4) Complete orientation to your operation as specified in Division 4 of this subchapter (relating to Professional Development).

40 TAC, Chapter 745, Subchapter F outlines the requirement that all employees, not just those that are regularly or frequently present, complete a background check.

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

Subchapter D, Personnel
Division 2, Employees and Caregivers
September 2010

Medium — Except as otherwise provided in this division, each employee counted in the child/caregiver ratio must comply with minimum standards for employees and must:

Medium — (1) Be at least 18 years of age;

Medium High — (2) Have a:

(A) High school diploma;

(B) High school equivalent; or

(C) High school certificate of coursework completion as defined in Texas Education Code, §28.025(d); and

Medium High — (3) Complete pre-service training, as specified in Division 4 of this subchapter (relating to Professional Development).

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

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

Subchapter D, Personnel
Division 2, Employees and Caregivers
September 2010

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

Medium — (1) You don't leave the person alone with or in charge of the operation or a group of children;

Medium — (2) The person works in the same room with and is supervised by a caregiver qualified under §744.1105 of this title (relating to What additional minimum qualifications must each of my caregivers meet?); and

Medium — (3) The person has completed a child-care-related career program, which the Texas Education Agency or another state or federal agency approves.

(continued)

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

Medium (1) You do not leave the person alone with or in charge of a group of children or the operation;

Medium High (2) The person works in the same room with and is supervised by a caregiver qualified under §744.1105 of this title;

Medium (3) The person is currently enrolled in or has completed a child-care-related career program that the Texas Education Agency or another state or federal agency approves; and

Medium (4) The person is expected to obtain a high school diploma.

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

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

Subchapter D, Personnel
Division 2, Employees and Caregivers
September 2010

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

§744.1111. What does Licensing mean by the term “high school equivalent”?

Subchapter D, Personnel
Division 2, Employees and Caregivers
September 2010

Medium (a) A high school equivalent is a program recognized by the Texas Education Agency or other public educational entity outside of Texas, which offers training similar to reading, writing, and problem-solving skills taught at the high school level, such as a General Educational Development certificate.

Medium (b) You must provide original documentation to us to verify completion of any high school equivalency program.

Division 3, General Responsibilities for Personnel

§744.1201. What general responsibilities do my employees have?

Subchapter D, Personnel
Division 3, General Responsibilities for Personnel
September 2010

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

High (1) Demonstrate competency, good judgment, and self-control in the presence of children and when performing assigned responsibilities;

High (2) Relate to children with courtesy, respect, acceptance, and patience;

High (3) Recognize and respect the uniqueness and potential of all children, their families, and their cultures;

High (4) Ensure that no child is abused, neglected, or exploited while in the care of the operation; and

High (5) Report suspected abuse, neglect, and exploitation to DFPS or to law enforcement, as specified in the Texas Family Code §261.101.

§744.1203. What additional responsibilities do my caregivers counted in the child/caregiver ratio have?

Subchapter D, Personnel
Division 3, General Responsibilities for Personnel
September 2010

In addition to the responsibilities for employees specified in this division, caregivers counted in the child/caregiver ratio must:

High (1) Know and comply with the minimum standards in this chapter;

High (2) Know which children they are responsible for;

Medium High (3) Know each child's name and have information showing each child's age;

High (4) Supervise children at all times, as specified in §744.1205 of this title (relating to What does Licensing mean by "supervise children at all times?");

Medium High (5) Ensure the children are not out of control;

Medium High (6) Be free from activities not directly involving the teaching, care, and supervision of children, such as:

(A) Administrative and clerical functions that take the caregiver's attention away from the children;

(B) Meal preparation, except when 12 or fewer children are in care;

(C) Janitorial duties, such as mopping, vacuuming, and cleaning restrooms. Sweeping up after an activity or mopping up spills may be necessary for the children's safety and are not considered janitorial duties; and

(D) Personal use of electronic devices, such as cell phones, MP3 players, and video games;

(continued)

Medium High (7) Interact routinely with children in a positive manner;

Medium High (8) Foster developmentally appropriate independence in children through planned but flexible program activities;

Medium High (9) Foster a cooperative rather than a competitive atmosphere;

Medium Low (10) Show appreciation of children's efforts and accomplishments; and

Medium (11) Ensure continuity of care for children by sharing with incoming caregivers information about each child's activities during the previous shift and any verbal or written instructions given by the parent.

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

§744.1205. What does Licensing mean by "supervise children at all times"?

Subchapter D, Personnel
Division 3, General Responsibilities for Personnel
September 2010

No Weight Supervising children at all times means that the assigned caregiver is accountable for each child's care. This includes responsibility for the ongoing activity of each child, appropriate visual and/or auditory awareness, physical proximity, and knowledge of activity requirements and each child's needs. The caregiver must intervene when necessary to ensure children's safety. In deciding how closely to supervise children, the caregiver must take into account:

(1) Ages of the children;

(2) Individual differences and abilities;

(3) Indoor and outdoor layout of the operation; and

(4) Neighborhood circumstances, hazards, and risks.

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

Division 4, Professional Development

§744.1301. What training must I ensure that my employees have?

Subchapter D, Personnel
Division 4, Professional Development
September 2010

You must make sure that each employee has the following training, as specified in this division:

Low (1) Orientation to the operation for all employees;

Low (2) Eight clock hours of pre-service training, or documentation of exemption, for caregivers;

Low (3) 15 clock hours of annual training for caregivers and site directors;

Low (4) 20 clock hours of annual training for the operation director and program director; and

Low (5) CPR and first-aid certification.

Employees, such as janitors and cooks, who do not have responsibility in caring for a group of children, do not have the same training needs as a caregiver who is responsible for the care and supervision of a group of children.

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

Subchapter D, Personnel
Division 4, Professional Development
September 2016

(a) Your orientation for employees must include at least the following:

Medium High (1) An overview of the minimum standards found in this chapter;

Medium High (2) An overview of operational policies, including discipline and guidance practices and procedures for the release of children;

Medium (3) An overview regarding the prevention, recognition, and reporting of child abuse and neglect including:

(A) Factors indicating a child is at risk of abuse or neglect;

(B) Warning signs indicating a child may be a victim of abuse or neglect;

(C) Procedures for reporting child abuse or neglect; and

(D) Community organizations that have training programs available to child-care center staff members, children, and parents;

Medium High (4) An overview of the procedures to follow in handling emergencies, which includes sharing the emergency preparedness plan with all employees. Emergencies may include, but are not limited to, fire, explosion, tornado, toxic fumes, volatile persons, and severe injury or illness of a child or adult; and

Medium High (5) The location and use of fire extinguishers and first-aid equipment.

(continued)

(b) For employees you hire on or after September 1, 2016, your orientation must also cover the following areas:

Medium (1) Administering medication, if applicable, including compliance with §744.2653 of this title (relating to What authorization must I obtain before administering a medication to a child in my care?);

Medium (2) Preventing and responding to emergencies due to food or an allergic reaction;

Medium (3) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electric hazards, bodies of water, and vehicular traffic;

Medium (4) Handling, storing, and disposing of hazardous materials, including compliance with §744.2523 of this title (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?); and

Medium (5) Precautions in transporting children, if your operation transports a child whose chronological or developmental age is younger than nine years old.

- *Orientation programs for new employees should be specific to the individual operation.*
- *Orientation, which addresses employee responsibilities, is different from training, which addresses issues general to the care of children.*

§744.1305. What must be covered in the eight clock hours of pre-service training for caregivers?

Subchapter D, Personnel
Division 4, Professional Development
September 2016

Before a caregiver can be counted in the child/caregiver ratio, the caregiver must complete eight clock hours of pre-service training that covers the following areas:

Medium (1) Developmental stages of children;

Medium (2) Age-appropriate activities for children;

Medium (3) Positive guidance and discipline of children;

Medium (4) Fostering children's self-esteem;

Medium (5) Supervision and safety practices in the care of children;

Medium (6) Positive interaction with children; and

Medium (7) Preventing and controlling the spread of communicable diseases, including immunizations.

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

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

Subchapter D, Personnel
Division 4, Professional Development
September 2016

No Weight

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

(1) At least six months prior experience in a regulated operation; or

(2) Documentation of at least eight clock hours of training in the areas specified in §744.1305 of this title (relating to What must be covered in the eight clock hours of pre-service training for caregivers?) at another regulated operation.

§744.1309. How many clock hours of annual training must be obtained by caregivers and site directors?

Subchapter D, Personnel
Division 4, Professional Development
September 2016

Medium High

(a) Each caregiver and site director must obtain at least 15 clock hours of training each year relevant to the age of the children for whom the person provides care.

No Weight

(b) The 15 clock hours of annual training are exclusive of requirements for orientation, pre-service training, CPR and first aid training, transportation safety training, and high school child-care work-study classes.

Medium

(c) At least six clock hours of the annual training hours must be in one or more of the following topics:

(1) Child growth and development;

(2) Guidance and discipline;

(3) Age-appropriate curriculum; and

(4) Teacher-child interaction.

Medium

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

(1) Emergency preparedness;

(2) Preventing and controlling the spread of communicable diseases, including immunizations;

(3) Administering medication, if applicable, including compliance with §744.2653 of this title (relating to What authorization must I obtain before administering a medication to a child in my care?);

(4) Preventing and responding to emergencies due to food or an allergic reaction;

(5) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electric hazards, bodies of water, and vehicular traffic; and

(continued)

(6) Handling, storing, and disposing of hazardous materials including compliance with §744.2523 of this title (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?).

Low

(e) The remaining annual training hours must be in one or more of the following topics:

(1) Care of children with special needs;

(2) Child health (for example, nutrition or physical activity);

(3) Safety;

(4) Risk management;

(5) Identification and care of ill children;

(6) Cultural diversity for children and families;

(7) Professional development (for example, effective communication with families and time and stress management);

(8) Topics relevant to the particular age group the caregiver is assigned;

(9) Planning developmentally appropriate learning activities; and

(10) Minimum standards and how they apply to the caregiver.

Medium Low

(f) No more than 80% of the annual training hours may be obtained through self-instructional training. No more than three hours of the self-instructional training may come from a person reading written materials or watching a video on their own.

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

§744.1311. How many clock hours of training must an operation director or a program director obtain each year?

Subchapter D, Personnel
Division 4, Professional Development
September 2016

Medium High

(a) An operation director and/or a program director must obtain at least 20 clock hours of training each year relevant to the age of the children for whom the operation provides care.

No Weight

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

(continued)

Medium (c) At least six clock hours of the annual training hours must be in one or more of the following topics:

(1) Child growth and development;

(2) Guidance and discipline;

(3) Age-appropriate curriculum;

(4) Teacher-child interaction; and

(5) Serving children with special care needs.

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

(1) Emergency preparedness;

(2) Preventing and controlling the spread of communicable diseases, including immunizations;

(3) Administering medication, if applicable, including compliance with §744.2653 of this title (relating to What authorization must I obtain before administering a medication to a child in my care?);

(4) Preventing and responding to emergencies due to food or an allergic reaction;

(5) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electric hazards, bodies of water, and vehicular traffic; and

(6) Handling, storing, and disposing of hazardous materials including compliance with §744.2523 of this title (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?).

(e) An operation director or program director with:

Medium (1) Five or fewer years of experience as a designated director of an operation or as a program director must complete at least six clock hours of the annual training hours in management techniques, leadership, or staff supervision; or

Low (2) More than five years of experience as a designated director of an operation or as a program director must complete at least three clock hours of the annual training hours in management techniques, leadership, or staff supervision.

Low (f) The remainder of the 20 clock hours of annual training must be selected from the training topics specified in §744.1309(e) of this title (relating to How many clock hours of annual training must be obtained by caregivers and site directors?).

Low (g) An operation director or program director may obtain clock hours or CEUs from the same sources as caregivers.

Low (h) Training hours may not be earned for presenting training to others.

Low (i) No more than 80% of the annual training hours may be obtained through self-instructional training. No more than three hours of the self-instructional training may come from a person reading written materials or watching a video on their own.

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

Subchapter D, Personnel
Division 4, Professional Development
September 2010

Low

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

§744.1315. Who must have first-aid and CPR training?

Subchapter D, Personnel
Division 4, Professional Development
September 2010

High

(a) One caregiver per group of children must have current training in first aid with rescue breathing and choking. Pediatric first aid is preferred, but not required.

Medium High

(b) One caregiver or employee per operation, and one caregiver or employee for each group of children away from the operation, must have current training in cardiopulmonary resuscitation (CPR) for children and adults.

Medium High

(c) CPR training and re-certification must adhere to the guidelines for CPR for laypersons established by the American Heart Association, and consist of a curriculum that includes use of a CPR manikin and both written and hands-on skill-based instruction, practice, and testing.

Medium High

(d) CPR and first-aid training must not be obtained through self-instructional training.

- *According to the American Academy of Pediatrics, knowledge of pediatric first aid, including management of a blocked airway and rescue breathing and the confidence to use these skills, are critically important to the outcome of an emergency situation. CPR and first-aid training obtained from resources that meet the criteria in subsection (c) will help ensure that the techniques and information the caregiver receives is up to date.*
- *Blended learning CPR and first-aid training is acceptable as long as the criteria in subsection (c) is met. Hands-on instruction, practice and testing face-to-face with an instructor allow participants the opportunity to ask questions and receive feedback.*

§744.1317. What additional training must a person have in order to transport a child in care?

Subchapter D, Personnel
Division 4, Professional Development
September 2010

Medium High (a) An employee or owner must complete two hours of annual training on transportation safety in order to transport a child whose chronological or development age is younger than nine years old. This training is in addition to other required training hours.

Medium High (b) The person must obtain these two hours of transportation safety training prior to transporting children.

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

Subchapter D, Personnel
Division 4, Professional Development
March 2012

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

(1) A training provider registered with the Texas Early Care and Education Career Development System's Texas Trainer Registry, maintained by the Texas Head Start State Collaboration Office;

(2) An instructor who teaches early childhood development or another relevant course at a secondary school or institution of higher education accredited by a recognized accrediting agency;

(3) An employee of a state agency with relevant expertise;

(4) A physician, psychologist, licensed professional counselor, social worker, or registered nurse;

(5) A person who holds a generally recognized credential or possesses documented knowledge relevant to the training the person will provide; or

(6) A person who has at least two years of experience working in child development, a child development program, early childhood education, a childhood education program, or a Head Start or Early Head Start program and:

(A) Has been awarded a Child Development Associate (CDA) credential; or

(B) Holds at least an associate's degree in child development, early childhood education, or a related field.

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

Medium Low (c) Self-instructional training may not be used for CPR or first-aid certification.

(continued)

No Weight (d) All training must include:

Medium Low (1) Specifically stated learning objectives;

Medium Low (2) A curriculum, which includes experiential or applied activities;

Low (3) An evaluation/assessment tool to determine whether the person has obtained the information necessary to meet the stated objectives; and

Medium Low (4) A certificate of successful completion from the training source.

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

Subchapter D, Personnel
Division 4, Professional Development
September 2010

No Weight No. We do not approve or endorse training resources or trainers for training hours. You should, however, ensure you and your employees receive relevant training from reliable resources, in topics specified in this division, and that participants receive original documentation of completion, as specified in this division.

We recommend you:

- *Ask the trainer to provide you with a résumé or vita showing relevant experience and education, or be certain you are obtaining training through reliable sources in the community who have verified the presenter's qualifications for you.*
- *Ask to see a copy of the certificate your employees will receive and to preview the materials, before entering into an agreement to purchase any training.*

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

Subchapter D, Personnel
Division 4, Professional Development
September 2010

No Weight Yes. If the training is in a topic specified in this division and the caregiver can provide documentation of completion as specified in this division, then you may count this training toward the annual training requirement.

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

Subchapter D, Personnel
Division 4, Professional Development
September 2010

No Weight

If the caregiver or director is able to provide documentation of training, as specified in §744.1331 of this title (relating to What documentation must I provide to Licensing to verify that training requirements have been met?), obtained from another child-day care operation that we regulate within two months before coming to work for your operation, this training may apply toward the annual training requirement. If you apply this training to the annual training requirement, you must adjust the annual training year due dates for this person accordingly.

§744.1327. What is self-instructional and instructor-led training?

Subchapter D, Personnel
Division 4, Professional Development
March 2012

Low

(a) Self-instructional training is designed to be used by one individual working alone and at their own pace to complete the lessons or modules. Lessons or modules commonly include questions with clear right and wrong answers. Examples include, but are not limited to, self-paced web-based training, written materials, or a combination of video or web-based and written materials.

Low

(b) Instructor-led training is characterized by the communication and interaction that takes place between the learner and the instructor and must include an opportunity for the learner to interact with the instructor to obtain information beyond the scope of the training materials. The instructor must be able to communicate with the learner in a timely and organized fashion, including but not limited to the instructor answering questions, providing feedback on skills practice, providing guidance or information on additional resources, and proactively contacting learners. Examples include, but are not limited to, classroom training, web-based on-line facilitated learning, video-conferencing, or other group learning experiences.

Medium Low

(c) Both self-instructional and instructor-led training must also include the components listed in §744.1319(d) of this title (relating to Must the training for my caregivers and the director meet certain criteria?).

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

Subchapter D, Personnel
Division 4, Professional Development
March 2012

Medium Low (a) Except as provided in this section, you must maintain original certificates documenting CPR/first-aid and annual training in each employee's personnel record at the operation. To be counted toward compliance with the minimum standards, the trainer or training source must provide the participant with an original certificate or letter showing:

Medium Low (1) The participant's name;

Medium Low (2) Date of the training;

Medium Low (3) Title/subject of the training;

Low (4) The trainer's name, or the source of the training for self-instructional training;

Low (5) The trainer's qualifications, in compliance with §744.1319 of this title (relating to Must the training for my caregivers and the director meet certain criteria?); and

Low (6) Length of the training specified in clock hours, CEUs, or college credit hours, as appropriate.

Low (b) Documentation of CPR/first-aid training must include the same information in subsection (a) of this section, and must also include the expiration date of the training, as determined by the organization providing the training. A photocopy of the original CPR/first-aid certificate or letter may be maintained in the personnel record, as long as the employee can provide an original document upon request by Licensing.

Low (c) You must obtain a signed and dated statement from the employee and the person providing the orientation and pre-service training stating the employee has received the orientation and pre-service training, or you may obtain documentation as specified in subsection (a) of this section.

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

Division 5, Volunteers, Substitutes, and Persons under Contract

§744.1401. With what minimum standards must substitutes comply?

Subchapter D, Personnel
Division 5, Volunteers, Substitutes, and Persons under Contract
September 2010

Medium High (a) Substitutes counted in the child/caregiver ratio, whether paid or unpaid, are considered caregivers and must comply with minimum standards that apply to employees and caregivers, except as otherwise provided in this division.

Medium (b) Substitutes not counted in the child/caregiver ratio, whether paid or unpaid, must comply with minimum standards that apply to employees, except as otherwise provided in this division.

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

§744.1403. With what minimum standards must volunteers or any person under contract with the operation comply?

Subchapter D, Personnel
Division 5, Volunteers, Substitutes, and Persons under Contract
September 2010

Medium (a) Volunteers and any person under contract with the operation, whether paid or unpaid, who are regularly or frequently present at the operation but not counted in the child/caregiver ratio, must comply with minimum standards that apply to employees.

Medium (b) Volunteers and any person under contract with the operation, whether paid or unpaid, who are regularly or frequently present at the operation and counted in the child/caregiver ratio, must comply with minimum standards that apply to employees and caregivers.

Medium High (c) Volunteers and any person under contract with the operation that do not meet caregiver qualifications, whether paid or unpaid, must never be left alone with children.

- *Volunteers and/or parents who supplement the ratios for swimming, wading and field trip activities on an incremental or irregular basis do not require training.*
- *The term "Frequently," used in subsections (a) and (b) is defined in §744.105(24) of this title (relating to What do certain words and terms mean in this chapter?).*

Subchapter E, Child/Caregiver Ratios and Group Sizes

Division 1, Ratios and Group Sizes at the Operation

§744.1501. What is child/caregiver ratio?

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

Medium Low (a) The child/caregiver ratio is the maximum number of children one caregiver can be responsible for.

Medium High (b) Each child must have a caregiver who is responsible for the child and who is aware of details of the child's habits, interests, and any special needs.

§744.1503. What is considered a group?

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

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

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

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

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

Medium (1) The room is divided so that groups are separated. For example, a group of 25 children and another group of 10 children may be cared for in the same room if the placement of shelves, accordion doors, low movable walls, or symbolic boundaries divide the area so that children in one group do not freely mix with children in another group;

Medium (2) Groups may move from one activity area to another within the room during the day, but individual children may not freely mingle between groups; and

Medium (3) The total number of children must not routinely exceed the room capacity based on activity space.

(continued)

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

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

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

In determining child/caregiver ratio, the following apply:

Medium Low (1) Child/caregiver ratio is based on the specified age of the children in the caregiver's group or the age of the youngest child in the group, depending on the activity and the number of children at the operation.

Medium Low (2) You may use the developmental or emotional age, rather than the chronological age, of a child with special care needs, if this is recommended by a health-care professional or other qualified professional and is documented in the child's record.

Medium Low (3) You must consider the skills of the caregiver and the needs of the individual children and the group when assigning a caregiver to a group of children.

Medium (4) You must include all children in care, including children related to the director and employees.

Medium (5) In emergency situations, you may use employees of the operation who do not meet caregiver qualifications for a limited time while a substitute caregiver is being secured. The time must be no longer than is reasonably necessary to secure a qualified substitute caregiver. Emergency situations include, but are not limited to, illness, accident, or death.

Medium (6) The total number of children in care at the operation and in care away from the operation, such as during a field trip, must never exceed the licensed capacity of the operation.

Division 2, Classroom Ratios and Group Sizes

§744.1601. How many children may one caregiver supervise?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 2, Classroom Ratios and Group Sizes
September 2010

Medium High

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

- *Throughout this subchapter there are references to 40 TAC Chapter 746, Minimum Standards for Licensed Child-Care Centers. You may access this publication on the DFPS website at:* http://www.dfps.state.tx.us/Child_Care/Child_Care_Standards_and_Regulations/default.asp*.*
- *Research indicates direct, warm, social interactions betweens adults and children are more likely to occur with lower child/caregiver ratios. According to the AAP, caregivers must be recognized as performing a job for groups of children that parents would rarely be considered capable of handling alone.*

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

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 2, Classroom Ratios and Group Sizes
September 2010

Medium Low

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

(1) List all of the children in the group in order of their ages from youngest to oldest;

(2) Determine the total number of children in the group and divide this number by two. If the result is not a whole number but is .5, such as 6.5, round up to the next number, which is 7. This will be the core number of the group; and

(3) Begin counting at the first or youngest child on your list and count down the list from youngest to oldest, until you reach the core number. The age of this child is the specified age of the children in this group.

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

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 2, Classroom Ratios and Group Sizes
September 2010

Medium High

The maximum number of children two or more caregivers may supervise is limited by the maximum group size.

§744.1607. What is the maximum group size?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 2, Classroom Ratios and Group Sizes
September 2010

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

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

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

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 2, Classroom Ratios and Group Sizes
September 2010

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

Medium (1) For children three years through four years old, for a maximum of 30 minutes;

Medium (2) For children five years old and older, for a maximum of 1 1/2 hours;

Medium (3) For mealtimes, field trips, outdoor play, and naptimes, for the length of that activity; and

Medium (4) For activities that are fundamental to the core development of a skill, talent, ability, expertise, or proficiency that is the goal of skill instruction or training that is a core component of your operation's program, for the length of the activity.

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

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

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

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 2, Classroom Ratios and Group Sizes
September 2010

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

Medium High (1) Groups of children using reduced ratio must be combined in a central sleeping location that safely accommodates naptime equipment;

Medium High (2) Groups of children that cannot be combined in a central location due to space limitations must not use reduced ratios;

No Weight (3) Caregivers with groups that cannot be combined must not be counted as additional caregivers in the building or in the naptime ratio;

Medium High (4) If only one caregiver is required to supervise the naptime group, at least one other employee or caregiver must be present in the building;

Medium High (5) If more than one caregiver(s) must supervise the naptime group, one additional employee or caregiver must be present in the building for every two caregivers supervising the naptime group;

Medium High (6) Caregivers supervising during naptime must be physically present in the room or area in which children are napping and must be able to summon the additional employee(s) without leaving the room or area; and

Medium High (7) Other employees, such as the director or cook, who are not supervising a group of children may be counted as additional adults required in the building during naptime.

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

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

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

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 2, Classroom Ratios and Group Sizes
September 2010

Medium High

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

Division 3, Ratios for Field Trips

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

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 3, Ratios for Field Trips
September 2010

Medium High

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

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

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

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 3, Ratios for Field Trips
September 2010

Medium High

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

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

Division 4, Ratios for Nighttime Care

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

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 4, Ratios for Nighttime Care
September 2010

Low

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

Division 5, Ratios for Water Activities

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

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 5, Ratios for Water Activities
September 2010

Medium High

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

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

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 5, Ratios for Water Activities
September 2010

High

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

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

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

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 5, Ratios for Water Activities
September 2010

High

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

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

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 5, Ratios for Water Activities
September 2010

Medium High (a) You must not count the certified lifeguard in the child/caregiver ratio when people other than the children from your operation are swimming.

Medium High (b) If only children from your operation are swimming, you may count the certified lifeguard in the child/caregiver ratio, although the lifeguard must never be left alone with any of the children unless the lifeguard is also a qualified caregiver you employ at your operation.

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

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

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 5, Ratios for Water Activities
September 2010

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

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

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 5, Ratios for Water Activities
September 2010

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

Medium High (1) You maintain at least the classroom child/caregiver ratios required in this subchapter with caregivers who do meet the minimum qualifications for caregivers;

High (2) All persons included in the ratios for water activities must be able to swim and must be prepared to do so in an emergency; and

High (3) You ensure compliance with all other minimum standards, including, but not limited to, standards relating to supervision, discipline, and guidance.

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

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 5, Ratios for Water Activities
September 2010

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

Subchapter F, Developmental Activities and Equipment

Division 1, Activities and Activity Plans

§744.2001. Must caregivers provide planned activities for the children in their care?

Subchapter F, Developmental Activities and Equipment
Division 1, Activities and Activity Plans
September 2010

Medium (a) Yes. Caregivers must ensure children receive individual attention and care including:

Medium (1) Flexible programming according to each child's age, interest, and abilities;

Medium (2) Encouraging communication and expression of feelings in appropriate ways;

Medium (3) Study time for those children who choose to work on homework assignments;

Medium (4) Physical care routines appropriate to each child's developmental needs; and

Medium (5) A caregiver who is aware of the arrival and departure of each child, including dismissing children who ride the bus or walk home.

No Weight (b) In addition, the following activities must be included for children who are in care five or more consecutive hours in a day:

Medium (1) Outdoor play in which the children make use of both small and large muscles, both in the morning and afternoon, when weather permits;

Medium (2) A balance of active and quiet play, including group and individual activities;

Medium (3) Opportunities for active play both indoors and outdoors. Examples include active games such as tag and Simon says, dancing and creative movement to music and singing, simple games and dramatic or imaginary play that encourages running, stretching, climbing, and walking;

Medium High (4) Regular meal and snack times as specified in §744.2403 of this title (relating to How often must I feed children in my care?);

Medium (5) Supervised naptimes, or a period of rest for those children too old to nap;

Medium (6) Both child-initiated and caregiver-initiated activities;

Medium (7) Sufficient time for activities and routines so that children can progress at their own developmental rate; and

Medium (8) No long waiting periods between activities or prolonged periods during which children stand or sit.

(continued)

Medium (c) You must ensure that children who need special care due to disabling or limiting conditions receive the care recommended by a health-care professional or qualified professionals affiliated with the local school district or early childhood intervention program. These basic care requirements must be documented and on file for review at the operation during your hours of operation. Activities must integrate all children with or without special care needs. You may need to adapt equipment and vary methods to ensure that you care for children with special needs in a natural environment.

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

§744.2003. Are there additional requirements if my operation cares for children under the age of five?

Subchapter F, Developmental Activities and Equipment
Division 1, Activities and Activity Plans
September 2010

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

Medium (1) Have a written plan that includes the following:

Medium High (A) How children under the age of five will be supervised while transitioning to and from restrooms, indoor and outdoor activity spaces, and spaces shared by other persons outside of the operation;

Medium (B) How caregivers will meet the unique care needs of children younger than five years old;

Medium (C) Under what circumstances children under five years old will be mixing with older children in the operation; and

Medium (D) Any modifications to space or equipment that will be made to accommodate children under five years old.

(continued)

Medium (2) Follow the plan and make the plan available for review by Licensing and parents upon request during your hours of operation.

Pre-kindergarten age children have different care needs from school-age children. Younger children may require additional assistance from caregivers in such areas as:

- *self-care activities such as toileting and hand washing*
- *transitioning from one activity to another*
- *saying goodbye to a parent*
- *communicating with peers*

§744.2005. Must caregivers have written activity plans?

Subchapter F, Developmental Activities and Equipment
Division 1, Activities and Activity Plans
September 2010

Medium (a) You must have a written activity plan for children who are in care for five or more consecutive hours. The plan must outline the daily routines and specific activities for each group and the plan must be followed by the caregiver(s) responsible for that group.

Medium (b) The activity plan must be inclusive for all children in the group regardless of disabling or limiting conditions.

Medium (c) The plan must indicate the age group it is designed for and dates (daily, weekly, or monthly) the plan covers.

Medium (d) You must post the written activity plan for each group of children as specified in §744.403 of this title (relating to When and where must these items be posted?).

Medium Low (e) You must keep a written activity plan at your operation for at least three months. You must make them available for review by Licensing and parents upon request during your hours of operation.

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

§744.2007. May I use TV/video, computer, or video games for activities with children?

Subchapter F, Developmental Activities and Equipment
Division 1, Activities and Activity Plans
September 2010

Medium (a) TV/video, computer, or video games may be used to supplement, but may not be used to replace, the activities for children described in §744.2001 of this title (relating to Must caregivers provide planned activities for the children in their care?).

No Weight (b) If you use TV/video, computer, or video games as an activity for children, you must ensure that they:

Medium (1) Are age-appropriate; and

Medium (2) Do not exceed two hours per day.

> *The AAP recommends limiting children's total media time to not more than one to two hours of quality programming per 24-hour period. Studies have shown a relationship between television viewing and increased risk for obesity in children.*

Division 2, Physical Space and Equipment

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

Subchapter F, Developmental Activities and Equipment
Division 2, Physical Space and Equipment
September 2010

Physical space and equipment for children must include:

Medium (1) Space for furnishings and activities without limiting children's movement;

Medium (2) Space where children can be supervised while they participate in individual activities;

Medium (3) Space for quiet time to do homework, if applicable;

Medium (4) Workspace to do homework and table-top activities, if applicable;

Medium (5) Tables and chairs that are safe, easy to clean, and of a height and size appropriate for each age group in care;

Medium (6) Age-appropriate nap or rest equipment for children who are in care more than five consecutive hours per day or whose physical needs otherwise require nap or rest;

Medium (7) Containers or low shelving available so items children can safely use without direct supervision are accessible to children; and

Medium (8) A system for storing each child's belongings, which allows a child to easily recognize and retrieve his belongings.

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

Subchapter G, Discipline and Guidance

§744.2101. What discipline techniques may be used with children in care?

Subchapter G, Discipline and Guidance
September 2010

(a) Each disciplinary measure must:

Medium (1) Be consistent with your policies and procedures;

Medium High (2) Not be physically or emotionally damaging to the child;

Medium High (3) Be appropriate to the child's age and level of understanding; and

Medium High (4) Be appropriate to the incident and severity of the behavior demonstrated.

Medium (b) The caregiver must explain the reason for the disciplinary measure when the caregiver imposes the measure.

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

Subchapter G, Discipline and Guidance
September 2010

Medium High A caregiver may only use positive methods of discipline and guidance that encourage self-esteem, self-control, and self-direction, which include at least the following:

Medium High (1) Using praise and encouragement of good behavior instead of focusing only upon unacceptable behavior;

Medium High (2) Reminding a child of behavior expectations daily by using clear, positive statements;

Medium High (3) Redirecting behavior using positive statements; and

Medium (4) Using brief supervised separation or time out from the group, when appropriate for the child's age and development, which is limited to no more than one minute per year of the child's age.

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

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

Subchapter G, Discipline and Guidance
September 2010

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

High (1) Corporal punishment or threats of corporal punishment;

High (2) Punishment associated with food, naps, or toilet training;

High (3) Pinching, shaking, or biting a child;

High (4) Hitting a child with a hand or instrument;

High (5) Putting anything in or on a child's mouth;

High (6) Humiliating, ridiculing, rejecting, or yelling at a child;

High (7) Subjecting a child to harsh, abusive, or profane language;

High (8) Placing a child in a locked or dark room, bathroom, or closet with the door closed; and

High (9) Requiring a child to remain silent or inactive for inappropriately long periods of time for the child's age.

- *Child development research supports that physical punishment such as pinching, shaking, or hitting children teaches them that hitting or hurting others is an acceptable way to control unwanted behavior or get what they want.*
- *Children will also mimic adults who demonstrate loud or violent behavior.*
- *Rapping, thumping, popping, and flicking are only examples of various terms used for inflicting corporal punishment on a child.*

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

Subchapter G, Discipline and Guidance
September 2010

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

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

Subchapter G, Discipline and Guidance
September 2010

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

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

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

Medium (A) The disciplinary measures that may be used, such as physical exercise or sparring used in martial arts programs;

Medium (B) What behaviors would warrant the use of these measures; and

Medium (C) The maximum amount of time the measures would be imposed;

Medium (3) Inform parents that they have the right to ask for additional information; and

High (4) Ensure that the disciplinary measures used are not considered abuse, neglect, or exploitation as specified in the Texas Family Code §261.401 and Chapter 745, Subchapter K, Division 5, of this title (relating to Abuse and Neglect).

§744.2111. Must I have a written discipline and guidance policy?

Subchapter G, Discipline and Guidance
September 2010

Medium High (a) You are required to have a written discipline and guidance policy that complies with the rules in this subchapter. You may use a copy of this subchapter for your written discipline and guidance policy, unless you use disciplinary and training measures specific to a skills-based program, as specified in §744.2109 of this title (relating to May I use disciplinary measures that are fundamental to teaching a skill, talent, ability, expertise, or proficiency?).

Medium (b) You must provide a copy of your written discipline and guidance policy to parents and employees.

§744.2113. Must I give a copy of my written discipline and guidance policy to parents and my employees?

Subchapter G, Discipline and Guidance
September 2010

Medium (a) You must give a copy of your written discipline and guidance policy or a copy of this subchapter to parents and operation employees as specified in Subchapter B of this chapter (relating to Administration and Communication).

Medium High (b) You must keep documentation showing that all parents and employees have received a copy of your written discipline and guidance policy or a copy of this subchapter. You may do this as a part of your operation's policies or in a separate document.

§744.2115. How often must I update my written discipline and guidance policy?

Subchapter G, Discipline and Guidance
September 2010

Medium You must update your written discipline and guidance policy each time you make changes. You must keep documentation at your operation showing that all parents and employees have received a copy of your revised discipline and guidance policy.

Subchapter H, Naptime

Division 1, Naptime

§744.2201. Must children have a naptime every day?

Subchapter H, Naptime
Division 1, Naptime
September 2010

Medium High

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

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

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

Subchapter H, Naptime
Division 1, Naptime
September 2010

Medium

The nap or rest period must not exceed three hours.

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

Subchapter H, Naptime
Division 1, Naptime
September 2010

Medium

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

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

Subchapter H, Naptime
Division 1, Naptime
September 2010

Medium

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

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

Subchapter H, Naptime
Division 1, Naptime
September 2010

Napping equipment must:

Medium High (1) Not block entrances or exits to the area;

Medium (2) Not be set up during other activities or left in place to interfere with children's activity space;

Medium High (3) Be arranged so that each child and caregiver has access to a walkway without having to walk on or over the sleep or rest equipment of other children; and

High (4) Be arranged so the caregiver can adequately supervise all of the children in the group as specified in §744.1205 of this title (relating to What does Licensing mean by "supervise children at all times"?).

§744.2211. May I darken the room while children are sleeping?

Subchapter H, Naptime
Division 1, Naptime
September 2010

Medium High Yes. You may lower the lighting, provided there is adequate lighting to allow visual supervision of all children in the group at all times.

Division 2, Nighttime Care

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

Subchapter H, Naptime
Division 2, Nighttime Care
September 2010

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

Subchapter I, Field Trips

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

Subchapter I, Field Trips
September 2016

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

Medium High — (1) You must have signed permission from the parent to take a child on a field trip, including permission to transport the child, if applicable;

Medium High — (2) One or more caregivers must carry emergency medical consent forms and emergency contact information for each child on the field trip;

High — (3) Caregivers must have a written list of all children on the field trip and must check the list frequently to account for the presence of all children;

High — (4) Caregivers must have a first-aid kit immediately available on field trips;

Medium-High — (5) Caregivers must have a copy of a child's food allergy emergency plan and allergy medications, if applicable;

Medium High — (6) Each child must wear a shirt, nametag, or other identification listing the name of the operation and the operation's telephone number;

Medium High — (7) Each caregiver must be easily identifiable by all children on the field trip by wearing a hat, operation tee-shirt, brightly-colored clothes, or other easily spotted identification;

Medium High — (8) Each caregiver supervising a field trip must have transportation available, a communication device such as a cellular phone or two-way radio available, or an alternate plan for transportation at the field-trip location in case of emergency; and

High — (9) Caregivers with training in CPR and first aid with rescue breathing and choking must be present on the field trip.

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

Subchapter I, Field Trips
September 2010

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

§744.2305. Must I have additional caregivers present to take children on a field trip?

Subchapter I, Field Trips
September 2010

No Weight

Refer to Subchapter E of this chapter (relating to Child/Caregiver Ratios and Group Sizes) for child/caregiver ratios relating to field trips.

Subchapter J, Nutrition and Food Service

§744.2401. What are the basic requirements for snack and mealtimes?

Subchapter J, Nutrition and Food Service
September 2016

Medium High (a) You must serve all children regular meals and morning and afternoon snacks as specified in this subchapter.

No Weight (b) If breakfast is served, a morning snack is not required.

Medium High (c) A child must not go more than three hours without a meal or snack being offered, unless the child is sleeping.

Low (d) If your operation is participating in the Child and Adult Care Food Program (CACFP) administered by the Texas Department of Agriculture, you may elect to meet those requirements rather than those specified in this section.

Medium High (e) You must ensure a supply of drinking water is readily available to each child and is served at every snack, mealtime, and after active play in a safe and sanitary manner.

Medium (f) You must not serve beverages with added sugars, such as carbonated beverages, fruit punch, or sweetened milk.

Medium High (g) You must not use food as a reward.

Medium-High (h) You must not serve a child a food identified on the child's food allergy emergency plan as specified in §744.2667 of this title (relating to What is a food allergy emergency plan?).

- *Research indicates serving drinking water to children ensures they are properly hydrated and facilitates reducing the intake of extra calories from nutrient poor foods and drinks which are associated with weight gain and obesity.*
- *Water should not be a substitute for milk at meals or snacks where milk is a required component. It is appropriate to require children to first drink the milk before serving themselves water.*
- *Beverages with added sugars should be avoided because they can contribute to child obesity, tooth decay, and poor nutrition. However it is acceptable to serve beverages with added sugars for a special occasion such as a holiday or birthday celebration.*

§744.2403. How often must I feed children in my care?

Subchapter J, Nutrition and Food Service
September 2010

Medium (a) You must offer each child in care for less than four hours at least one snack as specified in §744.2407 of this title (relating to What kind of foods must I serve for snacks?).

Medium High (b) You must offer each child in care for four to seven hours one meal, or one meal and one snack, equal to 1/3 of their daily food needs.

Medium High (c) You must offer each child in care for more than seven hours two meals and one snack, or two snacks and one meal, equal to 1/2 of their daily food needs.

Medium High (d) You must offer an evening meal and/or bedtime snack and breakfast to each child who receives nighttime care. The amount you offer will vary with the time the child arrives and leaves.

Low (e) If your operation is participating in the Child and Adult Care Food Program administered by the Texas Department of Agriculture, you may elect to meet those requirements rather than those specified in this section.

Well-balanced meals provide the food children need to grow, think, fight infection and fuel their bodies.

§744.2405. How do I know what a child's daily food needs are?

Subchapter J, Nutrition and Food Service
September 2010

Medium High

(a) The daily food needs for children three years through five years old are included in the following chart:

Food Groups	Number of Servings To Meet 1/3 Daily Requirement	Number of Servings To Meet 1/2 Daily Requirement	Serving Size
Milk	2/3 of One Serving	1	3/4 c. 1% Milk or 1 & 1/2 oz. Cheese or 3/4 c. Yogurt
Meat/ Meat Alternative	2/3 of One Serving	1	1 & 1/2 oz. Cooked lean meat or 3/4 Egg or 1/4 c. Cooked beans
Vegetable	1	1 and 1/2	1/2 c. Raw or cooked vegetable or 1/2 c. Raw leafy vegetable
Fruit	2/3 of One Serving	1	1/2 c. Canned or chopped fruit or 1 Piece fruit or melon wedge or 1/2 c. Juice
Whole Grains	2	3	1/2 Slice Bread or 1/4 c. Cooked cereal 1/2 oz. Ready to eat cereal or 1/4 c. Cooked pasta or rice or 3 to 5 Crackers

Medium High

(b) The daily food needs for children six years old and older are included in the following chart:

Food Groups	Number of Servings To Meet 1/3 Daily Requirement	Number of Servings To Meet 1/2 Daily Requirement	Serving size
Milk	2/3 to 1	1 to 1 and 1/2	1c. 1% Milk or 1& 1/2 oz. Natural cheese or 1 c. Yogurt
Meat/ Meat Alternative	2/3 to 1	1	2 oz. Cooked lean meat, poultry, or fish or 1/2 c. Cooked beans or 1/2 c. Tofu or 2 Tb. Peanut butter
Vegetables	1 to 1 and 2/3	2	1/2 c. Raw or cooked vegetables or 1/2 c. Raw leafy vegetable
Fruit	2/3 to 1 and 1/3	1 to 2	1/2 c. Canned or chopped fruit or 1 medium piece fruit or 3/4 c. Juice
Whole Grains	2 to 3 and 2/3	3 to 5+	1 slice bread or 1/2 c. Cooked cereal or 3/4 oz. Ready to eat cereal or 1/2 c. Cooked pasta or rice or 4-6 crackers

Medium

(c) You must serve enough food to allow children second servings from the vegetable, fruit, grain, and milk groups.

Low

(d) If your operation is participating in the Child and Adult Care Food Program (CACFP) administered by the Texas Department of Agriculture, you may elect to meet those requirements rather than those specified in this section.

- *The AAP recommends that children should be served skim or 1% milk.*
- *To help ensure that grains are whole-grain look closely at the ingredient list to make sure the first word is "whole" before grain.*
- *Having food available to provide a second serving to a child who requests it, helps to ensure the child's daily nutritional needs are met.*

§744.2407. What kind of foods must I serve for snacks?

Subchapter J, Nutrition and Food Service
September 2010

Medium Morning, afternoon, and nighttime snacks must be nutritious and include at least one of the following, which can be included in the child's daily food needs:

(1) One serving from the fruit or vegetable group;

(2) One serving from the milk group;

(3) One serving from the whole grains group; or

(4) One serving from the meat or meat alternative group.

Pre-kindergarten and school-age children continue to experience periods of rapid growth and snacks often become a significant part of a child's daily food intake as a result.

§744.2409. May parents provide meals and/or snacks for their children instead of my operation providing these?

Subchapter J, Nutrition and Food Service
September 2010

Medium (a) Yes; however, your enrollment agreement signed by the parent must include a statement that the parent is choosing to provide the child's meals and/or snacks from home, and the parent understands the operation is not responsible for its nutritional value or for meeting the child's daily food needs.

Medium (b) If the parent provides a meal but not a snack, you are responsible for providing a snack as specified in §744.2407 of this title (relating to What kind of foods must I serve for snacks?).

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

Medium (d) You must ensure meals and snacks provided by a parent and shared with other children meet the needs of children who require special diets.

Children with food allergies are at risk when they eat foods which have not been prepared or served by their own parent or a program employee who has knowledge of the food ingredients and individual children's needs.

§744.2411. How should my operation meet the needs of children who require special diets or do not want to eat foods we serve?

Subchapter J, Nutrition and Food Service
September 2010

Medium High (a) You must have written approval from a physician or a registered or licensed dietician in the child's records to serve a child a therapeutic or special diet. You must give this information to all employees preparing and serving food.

Medium (b) You must discuss recurring eating problems with the child's parent.

Medium (c) You may encourage but must not force children to eat.

Medium (d) You must not serve nutrient concentrates and supplements such as protein powders, liquid protein, vitamins, minerals, and other nonfood substances without written instructions from a physician.

§744.2413. Must I post and maintain daily menus?

Subchapter J, Nutrition and Food Service
September 2010

Yes. When children are in care for five or more consecutive hours per day, you must:

Medium (1) Post daily menus showing all meals and snacks prepared and served by the operation where parents and others can see them as specified in §744.403 of this title (relating to When and where must these items be posted?);

Medium (2) Keep a record of any substitutions made. Substitutions must be of comparable food value;

Medium (3) Date menus and keep copies for review at least the previous three months; and

Medium (4) If you rotate menus, keep a record of which menu was used for each date.

§744.2415. May I serve powdered milk?

Subchapter J, Nutrition and Food Service
September 2010

Medium Yes, you may serve powdered milk if you mix the powdered milk according to label directions, and prepare, store, and serve the milk in a safe and sanitary manner.

§744.2417. May I serve fruit or vegetable juices?

Subchapter J, Nutrition and Food Service
September 2010

Medium Yes, you may serve fruit or vegetable juices if you:

Medium (1) Serve only 100% fruit or vegetable juice; and

Medium (2) Only serve up to four ounces for children ages three years through five years old and six ounces for children ages six years old and older per day, when using to meet daily food needs.

> *The AAP recommends that children drink no more than four to six ounces of fruit juice a day. Over consumption of 100% fruit juice can contribute to overweight and obesity.*

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

Subchapter J, Nutrition and Food Service
September 2010

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

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

Medium High (2) If your operation lacks adequate facilities for sanitizing dishes and utensils, you must use only disposable, single-use items;

Medium (3) You must wash re-useable napkins and tablecloths after each use;

Medium High (4) You must discard single-service napkins, dishes, and utensils after use;

Medium High (5) Caregivers with open wounds and/or any injury that inhibits hand washing, such as casts, bandages, or braces, must not prepare food;

Medium High (6) You must serve children's food on plates or napkins, and you must not place food on a bare table or eating surface, which includes the floor;

Medium High (7) You must cover all food stored in the refrigerator;

Medium High (8) When meals are prepared at the operation, the food preparation area must be separated from the eating, play, and bathroom areas. You must not use the food preparation area as a passageway while food is being prepared; and

Medium High (9) You must not store poisonous or toxic materials and cleaning supplies with food.

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

§744.2421. Must I serve meals family style?

Subchapter J, Nutrition and Food Service
September 2010

No Weight (a) No, you do not have to use family-style meal service, although all meals and snack times must:

Medium (1) Be unhurried; and

Medium High (2) Include adult supervision of children.

Medium (b) If meals and snacks are served family style, caregivers must supervise children to prevent cross-contamination of the food.

- *Mealtime is a great opportunity for children to learn about new food, develop new motor skills, increase their dexterity, and develop language and social skills through conversation. Conversation at the table adds to the pleasant mealtime environment and provides opportunities for informal modeling of appropriate eating behaviors, communication about eating, and imparting nutrition learning experiences.*
- *The presence of adult caregivers during mealtime will help prevent behaviors that increase risk such as fighting, feeding each other, stuffing food into the mouth and so forth. Supervised eating also ensures that the child does not eat while talking, crying, laughing, or playing and thus helps to prevent choking.*

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

Subchapter J, Nutrition and Food Service
September 2010

No Weight (a) Yes, although toothbrushes and tooth powders or pastes provided for each child's individual use must be:

Medium (1) Labeled with the child's full name;

Medium (2) Stored out of children's reach when not in use; and

Medium (3) Stored in a manner that prevents the toothbrushes from touching each other during storage.

Medium (b) Children must have adult supervision while brushing their teeth.

Subchapter K, Health Practices

Division 1, Environmental Health

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

Subchapter K, Health Practices
Division 1, Environmental Health
June 2014

Medium High (a) Your operation must have a sanitation inspection before we issue your initial permit and at least once every 12 months, unless your operation is located in a public school facility operated by the local independent school district.

Medium High (b) If an inspection is required, a local sanitation official must conduct the inspection.

(c) If an inspection is not available from a local sanitation official, you must:

Medium High (1) Obtain documentation from a state or local sanitation official or county judge stating that an inspection is not available; and

Medium High (2) Maintain this documentation at the operation and make it available to us upon request.

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

Subchapter K, Health Practices
Division 1, Environmental Health
September 2010

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

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

Subchapter K, Health Practices
Division 1, Environmental Health
September 2010

Medium High If required, you must comply with corrections, restrictions, or conditions specified by the inspector in the sanitation report, letter, or checklist.

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

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

Subchapter K, Health Practices
Division 1, Environmental Health
September 2016

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

Medium High (1) Machine washing used cloth toys at least weekly and when contaminated;

Medium High (2) Machine washing used linens at least weekly, and when soiled or before a different child uses them;

Medium High (3) Sanitizing sleeping and rest equipment before a different child uses it and when soiled;

Medium High (4) Maintaining sand boxes and sand tables in a sanitary manner;

Medium High (5) Making all garbage inaccessible to children and managing it to keep the operation inside and outside, free of insects, rodents, and offensive odors, and disposing of it according to local and state requirements;

Medium High (6) Keeping all floors, ceilings, and walls in good repair and clean;

Medium High (7) Ensuring that all paints used at the operation are lead-free;

Medium High (8) Keeping all parts of the operation used by children well heated, lighted, and ventilated;

Medium High (9) Sanitizing table tops, furniture, and other similar equipment used by children when soiled or contaminated with matter such as food or bodily secretions;

Medium High (10) Clearly marking cleaning supplies and other toxic materials and keeping them separate from food and inaccessible to children; and

Medium-High (11) Using, storing, and disposing of hazardous materials as recommended by the manufacturer.

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

§744.2509. What does Licensing mean when it refers to "sanitizing"?

Subchapter K, Health Practices
Division 1, Environmental Health
September 2010

Medium High

Sanitizing requires a four-step process. For the sanitizing process to be effective, you must follow these steps in order:

(1) Washing with water and soap;

(2) Rinsing with clear water;

(3) Soaking in or spraying on a disinfecting solution (at least two minutes). Rinsing with cool water only those items that children are likely to place in their mouths; and

(4) Allowing the surface or article to air-dry.

§744.2511. What is a disinfecting solution?

Subchapter K, Health Practices
Division 1, Environmental Health
September 2010

A disinfecting solution may be:

(1) A self-made solution, prepared as follows:

Medium

(A) One tablespoon of regular strength liquid household bleach to each gallon of water used for disinfecting such items as toys and eating utensils; or

Medium High

(B) One-fourth cup of regular strength liquid household bleach to each gallon of water used for disinfecting surfaces; and

Medium High

(C) You must prepare each solution daily and place it in a closed and labeled container; or

Medium High

(2) A commercial product that is registered with the Environmental Protection Agency (EPA) as an antimicrobial product and includes directions for use in a hospital as a disinfectant. You must use the product according to label directions. Commercial products must not be toxic on surfaces likely to be mouthed by children.

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

Subchapter K, Health Practices
Division 1, Environmental Health
September 2010

Medium

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

§744.2515. When must employees wash their hands?

Subchapter K, Health Practices
Division 1, Environmental Health
September 2010

Employees must wash their hands:

Medium High (1) Before eating or handling food or medication;

Medium High (2) Before feeding a child;

Medium High (3) After arriving at the operation;

Medium High (4) After assisting a child with toileting;

Medium High (5) After personal toileting;

Medium High (6) After handling or cleaning body fluids, such as after wiping noses, mouths, or bottoms, and tending sores;

Medium High (7) After handling or feeding animals;

Medium High (8) After outdoor activities;

Medium High (9) After handling raw food products;

Medium High (10) After eating, drinking, or smoking; and

Medium High (11) After using any cleaners or toxic chemicals.

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

§744.2517. When must children wash their hands?

Subchapter K, Health Practices
Division 1, Environmental Health
September 2010

Children must wash their hands:

Medium High (1) Before eating;

Medium High (2) Before playing in a water play table;

Medium High (3) After toileting;

Medium High (4) After outdoor activities;

Medium High (5) After playing in sand;

Medium High (6) After feeding or touching animals; and

Medium High (7) Any other time that the caregiver has reason to believe the child has come in contact with substances that could be harmful to the child.

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

Subchapter K, Health Practices
Division 1, Environmental Health
September 2010

Medium High

Children and employees must wash their hands with soap and running water. Pre-moistened towelettes or wipes and waterless hand cleaners are not a substitute for soap and running water.

- *Research has shown the single most effective practice that prevents the spread of germs in the child-care setting is good hand washing by caregivers and children.*
- *Rubbing hands together under running water is the most important part of washing away infectious germs. Deficiencies in hand washing, including sharing basins of water, have contributed to many outbreaks of diarrhea among children and caregivers in child-care settings.*
- *The use of alcohol-based hand sanitizers does not substitute for hand washing in the group care setting. Alcohol-based hand sanitizers are flammable and toxic if ingested by children.*

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

Subchapter K, Health Practices
Division 1, Environmental Health
September 2010

Medium High

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

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

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

Subchapter K, Health Practices
Division 1, Environmental Health
September 2016

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

Medium High (1) Using of disposable, nonporous gloves;

Medium-High (2) Placing gloves contaminated with blood in a tied, sealed, or otherwise closed plastic bag and discarding them immediately;

Medium High (3) Discarding all other gloves immediately after one use; and

Medium High (4) Washing hands after using and disposing of the gloves.

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

Subchapter K, Health Practices
Division 1, Environmental Health
September 2010

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

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

Subchapter K, Health Practices
Division 1, Environmental Health
September 2010

Medium High (a) Children must not be allowed in areas where there is pesticide residue that may be harmful to them. Follow written instructions from the licensed pest control operator or label directions in order to determine whether the residue may be harmful to children.

Medium High (b) Areas where children are present may be treated with chemicals only when permissible under the label directions.

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

Subchapter K, Health Practices
Division 1, Environmental Health
September 2010

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

Medium High (1) Maintain the water supply in a safe and sanitary manner; and

Medium High (2) Maintain written records indicating the private water supply meets the requirements of the Texas Commission on Environmental Quality, if applicable.

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

Subchapter K, Health Practices
Division 1, Environmental Health
September 2010

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

Division 2, Toileting

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

Subchapter K, Health Practices
Division 2, Toileting
September 2010

Caregivers must:

Medium High (1) Promptly change soiled or wet clothing;

Medium High (2) Thoroughly cleanse and dry children with individual cloths or disposable towels. You must discard the disposable towels after use and launder any cloths before using them again;

Medium High (3) Not change children in or on areas that children come in close contact with during play or eating, such as dining tables, sofas, or floor play areas;

Medium High (4) Wash their hands after assisting with toileting. Refer to §744.2519 of this title (relating to How must children and employees wash their hands?); and

Medium High (5) Place soiled and wet clothing in individual sealed bags.

Division 3, Illness and Injury

§744.2571. What type of illness would prohibit a child from being admitted for care?

Subchapter K, Health Practices
Division 3, Illness and Injury
September 2010

You must not admit an ill child for care if one or more of the following exists:

Medium High (1) The illness prevents the child from participating comfortably in program activities, including outdoor play;

Medium High (2) The illness results in a greater need for care than caregivers can provide without compromising the health, safety, and supervision of the other children in care;

No Weight (3) The child has one of the following, unless medical evaluation by a health-care professional indicates that you can include the child in the program's activities:

Medium (A) Oral temperature above 101 degrees and accompanied by behavior changes or other signs or symptoms of illness;

Medium (B) Rectal temperature above 102 degrees and accompanied by behavior changes or other signs or symptoms of illness;

Medium (C) Armpit temperature above 100 degrees and accompanied by behavior changes or other signs or symptoms of illness; or

Medium (D) Symptoms and signs of possible severe illness such as lethargy, abnormal breathing, uncontrolled diarrhea, two or more vomiting episodes in 24 hours, rash with fever, mouth sores with drooling, behavior changes, or other signs that the child may be severely ill; or

Medium (4) A health-care professional has diagnosed the child with a communicable disease, and the child does not have medical documentation to indicate that the child is no longer contagious.

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

Subchapter K, Health Practices
Division 3, Illness and Injury
September 2010

Medium High You must follow the communicable disease exclusions required for schools as defined by the Texas Department of State Health Services (DSHS) in 25 TAC §97.7 (relating to Diseases Requiring Exclusion from Schools). You can access this information from the Department of State Health Services or Licensing staff.

§744.2575. What if a child becomes ill while in care?

Subchapter K, Health Practices
Division 3, Illness and Injury
September 2010

If a child becomes ill while in your care, you must:

Medium High (1) Contact the parent to pick up the child;

Medium High (2) Care for the child apart from other children;

Medium High (3) Give appropriate attention and supervision until the parent picks the child up; and

Medium High (4) Give extra attention to hand washing and sanitation if the child has diarrhea or vomiting.

§744.2577. How should caregivers respond to critical illness or injury?

Subchapter K, Health Practices
Division 3, Illness and Injury
September 2010

If critical illness or injury requires immediate attention of a physician, you must:

High (1) Contact emergency medical services or take the child to the nearest emergency room;

High (2) Give the child first-aid treatment or CPR when needed;

High (3) Contact the child's parent; and

High (4) Ensure supervision of other children in the group.

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

Subchapter K, Health Practices
Division 3, Illness and Injury
June 2014

(no weight) A vaccine-preventable disease is a disease that is included in the most current recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention

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

Subchapter K, Health Practices
Division 3, Illness and Injury
June 2014

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

Medium (1) Specify any vaccines that you have determined an employee must have for vaccine-preventable diseases based on the level of risk the employee presents to children by the employee's routine and direct exposure to children;

Medium High (2) Require each employee to receive each specified vaccine that the employee is not exempt from having;

Medium (3) Include procedures for verifying whether an employee has complied with your policy;

(4) Include procedures for an employee to be exempt from having a required vaccine because of:

Medium (A) Medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention (CDC); or

Medium (B) Reasons of conscience, including a religious belief;

Medium High (5) Include procedures that an exempt employee must follow to protect children in your care from exposure to disease, such as the use of protective medical equipment, including gloves and masks, based on the level of risk the employee presents to children by the employee's routine and direct exposure to children;

Medium Low (6) Prohibit discrimination or retaliatory action against an exempt employee, except that required use of protective medical equipment, including gloves and masks, may not be considered retaliatory action for purposes of this section;

Medium (7) Outline how you will maintain a written or electronic record of each employee's compliance with or exemption from your policy; and

Medium (8) State the disciplinary actions you may take against an employee who fails to comply with your policy.

Helpful Information

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

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

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

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

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

Subchapter L, Safety Practices

Division 1, Safety Precautions

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

Subchapter L, Safety Practices
Division 1, Safety Precautions
September 2010

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

Medium High (1) Electrical outlets accessible to a child younger than five years old must have childproof covers or safety outlets;

Medium High (2) 220-volt electrical connections within a child's reach must be covered with a screen or guard;

Medium High (3) Air conditioners, electric fans, and heaters must be mounted out of all children's reach or have safeguards that keep any child from being injured;

Medium High (4) Glass in sliding doors must be clearly marked with decals or other materials placed at children's eye level;

Medium High (5) Play materials and equipment must be safe and free from sharp or rough edges and toxic paints;

Medium High (6) Poisonous or potentially harmful plants must be inaccessible to all children;

Medium High (7) All storage chests, boxes, trunks, or similar items with hinged lids must be equipped with a lid support designed to hold the lid open in any position, be equipped with ventilation holes, and must not have a latch that might close and trap a child inside; and

High (8) All bodies of water such as pools, hot tubs, ponds, creeks, birdbaths, fountains, buckets, and rain barrels must be inaccessible to all children.

- *Supervision alone cannot prevent all accidents and injuries, therefore the environment must be free of health and safety hazards to reduce risks to children.*
- *Additional examples of hazards to children include: sharp scissors, plastic bags, knives, cigarettes, matches, lighters, flammable liquids, drugs/medications, sharp instruments such as an ice pick, power tools, cleaning supplies, chemicals and other items labeled keep out of the reach of children.*
- *Buildings, grounds and equipment in a state of disrepair threaten the health and safety of children.*

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

Subchapter L, Safety Practices
Division 1, Safety Precautions
September 2010

High (a) People whose behavior and/or health status poses an immediate threat or danger to the health or safety of the children must not be present when children are in care.

High (b) People must not consume alcohol or controlled substances without a prescription in the operation, during transportation, or on field trips.

High (c) People must not be under the influence of or impaired by alcohol or controlled substances in the operation, during transportation, or on field trips.

High (d) People must not smoke or use tobacco products at the operation, on the premises, on the playground, in transportation vehicles, or during field trips.

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

Subchapter L, Safety Practices
Division 1, Safety Precautions
September 2010

No Weight Although permissible, you are not required to have a video or audio monitoring system.

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

Subchapter L, Safety Practices
Division 1, Safety Precautions
September 2010

Medium (a) Law enforcement officials who are trained and certified to carry a firearm on duty may have firearms or ammunition on the premises of the operation.

High (b) For all other persons, firearms, hunting knives, bows and arrows, and other weapons are prohibited on the premises of the operation, unless the operation is also your residence and except as allowed under subsection (e) of this section.

High (c) Firearms, hunting knives, bows and arrows, and other weapons kept on the premises of an operation located in your home must remain in a locked cabinet inaccessible to children during your hours of operation.

High (d) Ammunition must be kept in a separate locked cabinet and inaccessible to children during your hours of operation.

(continued)

No Weight (e) If your operation uses specialized equipment or weapons that are fundamental to teaching a skill, talent, ability, expertise, or proficiency that is the goal of skill instruction or training that is a core component of your operation's program, such as batons and sticks used in martial arts programs:

Medium High (1) The equipment must be used according to manufacturer's instructions and supervised by trained personnel;

Medium (2) The safety practices employed by the operation and the risks associated with the use of the equipment must be outlined in your policies and procedures; and

Medium (3) Parents must provide written consent before children may use the equipment. Written consent must be kept on file at the operation in the child's record and available for review by Licensing during your hours of operation.

§744.2609. May I have other toys or equipment that explodes or shoots things?

Subchapter L, Safety Practices
Division 1, Safety Precautions
September 2010

Medium High No. Toys that explode or that shoot things, such as caps, BB guns, darts, or fireworks are prohibited as toys for children in both residential and non-residential locations. Toys that explode or shoot things kept on the premises of an operation located in your home must remain in a locked cabinet inaccessible to any child during your hours of operation.

Division 2, Medication and Medical Assistance

§744.2651. What does "medication" refer to in this division?

Subchapter L, Safety Practices
Division 2, Medication and Medical Assistance
March 2012

No Weight In this division, medication means:

(1) A prescription medication; or

(2) A non-prescription medication, excluding topical ointments such as sunscreen.

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

Subchapter L, Safety Practices
Division 2, Medication and Medical Assistance
March 2012

(a) Authorization to administer medication to a child in your care must be obtained from the child's parent:

Medium High (1) In writing, signed and dated;

Medium High (2) In an electronic format that is capable of being viewed and saved; or

Medium High (3) By telephone to administer a single dose of a medication.

Medium High (b) Authorization to administer medication expires on the first anniversary of the date the authorization is provided.

Medium (c) The child's parent may not authorize you to administer medication in excess of the medication's label instructions or the directions of the child's health-care professional.

Medium High (d) Parent authorization is not required if you administer a medication to a child in a medical emergency to prevent the death or serious bodily injury of the child, provided that you administer the medication as prescribed, directed, or intended.

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

Subchapter L, Safety Practices
Division 2, Medication and Medical Assistance
March 2012

(a) Medication must be given:

High (1) As stated on the label directions; or

High (2) As amended in writing by the child's health-care professional.

(b) Medication must:

Medium High (1) Be in the original container labeled with the child's full name and the date brought to the operation;

High (2) Be administered only to the child for whom it is intended; and

Medium High (3) Not be administered after its expiration date.

(c) When you administer medication to a child in your care, you must record the following:

Medium High (1) Full name of the child to whom the medication was given;

Medium High (2) Name of the medication;

Medium High (3) Date, time, and amount of medication given; and

Medium High (4) Full name of the employee administering the medication.

Medium (d) You must keep all medication records for at least three months after administering the medication.

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

Subchapter L, Safety Practices
Division 2, Medication and Medical Assistance
September 2010

You must store medications as follows:

High (1) Keep it out of the reach of children or in locked storage;

Medium High (2) Store it in a manner that does not contaminate food; and

Medium High (3) Refrigerate it, if refrigeration is required, and keep it separate from food.

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

Subchapter L, Safety Practices
Division 2, Medication and Medical Assistance
September 2010

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

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

Subchapter L, Safety Practices
Division 2, Medication and Medical Assistance
September 2010

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

§744.2663. What is specialized medical assistance?

Subchapter L, Safety Practices
Division 2, Medication and Medical Assistance
March 2012

No Weight Specialized medical assistance is any medical assistance other than medication. Examples include, but are not limited to, assisting with an apnea monitor, protective helmet, or leg brace.

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

Subchapter L, Safety Practices
Division 2, Medication and Medical Assistance
March 2012

High (a) If a child in your care requires specialized medical assistance, then you are required to provide the specialized medical assistance as recommended or ordered by a health-care professional.

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

§744.2667. What is a food allergy emergency plan?

Subchapter L, Safety Practices
Division 2, Medication and Medical Assistance
September 2016

No Weight

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

(1) a list of each food the child is allergic to;

(2) possible symptoms if exposed to a food on the list; and

(3) the steps to take if the child has an allergic reaction.

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

Subchapter L, Safety Practices
Division 2, Medication and Medical Assistance
September 2016

Medium-High

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

Division 3, Animals at the Operation

§744.2701. What steps must I take to have animals at my operation?

Subchapter L, Safety Practices
Division 3, Animals at the Operation
September 2010

If you choose to have animals on the premises, you must:

Medium

(1) Notify parents in writing when animals are or will be present;

Medium High

(2) Ensure the animals do not create unsafe or unsanitary conditions;

Medium High

(3) Ensure that children do not handle any animal that shows signs of illness, such as lethargy or diarrhea; and

Medium High

(4) Ensure that caregivers and children practice good hygiene and hand washing after handling or coming into contact with an animal and items used by an animal, such as water bowls, food bowls, and cages.

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

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

Subchapter L, Safety Practices
Division 3, Animals at the Operation
September 2010

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

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

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

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

Subchapter L, Safety Practices
Division 3, Animals at the Operation
September 2010

Medium High (a) Yes. Children must not have contact with chickens, ducks, and reptiles, such as snakes, turtles, lizards, iguanas, and amphibians, such as frogs and toads.

Medium High (b) You must keep the operation and playground free of animals unfamiliar to you.

Medium High (c) You must not allow children to play with animals unfamiliar to you or other animals that could be dangerous, including exotic animals such as monkeys.

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

Division 4, First-Aid Kits

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

Subchapter L, Safety Practices
Division 4, First-Aid Kits
September 2010

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

Medium (1) Clearly labeled;

Medium High (2) Kept in a clean and sanitary condition;

Medium High (3) Easily accessible to all employees;

Medium High (4) Stored in a designated location known to all employees; and

Medium High (5) Kept out of the reach of children.

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

Subchapter L, Safety Practices
Division 4, First-Aid Kits
September 2010

Medium (a) Each first-aid kit must contain the following supplies:

(1) A guide to first aid and emergency care;

(2) Adhesive tape;

(3) Antiseptic solution or wipes;

(4) Cotton balls;

(5) Multi-size adhesive bandages;

(6) Scissors;

(7) Sterile gauze pads;

(8) Thermometer, preferably non-glass;

(9) Tweezers; and

(10) Waterproof, disposable gloves.

Medium (b) The first-aid supplies must not have expired.

Division 5, Release of Children

§744.2801. To whom may I release children?

Subchapter L, Safety Practices
Division 5, Release of Children
September 2010

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

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

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

Subchapter L, Safety Practices
Division 5, Release of Children
September 2010

Medium High (a) You must develop operation policies for the release of children, including a plan to verify the identity of a person authorized to pick up a child but whom the caregiver does not know. If your operation transports children, the plan must include verifying the identity of a person to whom you release a child from an operation transportation vehicle.

Medium High (b) Your policies must include a reasonable means to record the identity of the individual, such as a copy of valid photo identification, an instant photograph of the individual, or recording the driver's license number and car license plate numbers. You must retain this information in the child's records for at least three months.

Medium High (c) You must instruct all employees in the operation's policies for the release of children, including the verification plan.

Subchapter M, Physical Facilities

Division 1, Indoor Space Requirements

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

Subchapter M, Physical Facilities
Division 1, Indoor Space Requirements
September 2010

Medium High

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

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

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

Subchapter M, Physical Facilities
Division 1, Indoor Space Requirements
September 2010

Medium High

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

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

Subchapter M, Physical Facilities
Division 1, Indoor Space Requirements
September 2010

No Weight (a) Indoor activity space requirements for operations licensed before September 1, 2010, vary based on the following:

Low (1) Operations licensed as a day-care center before August 31, 1997, must have at least 30 square feet of indoor activity space for each child you are licensed to serve;

Medium (2) Operations licensed as a day-care center or child-care center between August 31, 1997, and September 1, 2010, must have at least 30 square feet of indoor activity space for each child you are licensed to serve;

Low (3) Operations licensed as kindergarten and nursery schools, or schools: grades kindergarten and above, before September 1, 2003, must have at least 20 square feet of indoor activity space for each child you are licensed to serve; and

Low (4) Operations licensed as a drop-in center or group day-care home before September 1, 2003, must have at least 30 square feet of indoor activity space for each child you are licensed to serve.

Low (b) The exemptions specified in subsection (a) of this section remain in effect until a permit issued prior to September 1, 2010, is no longer valid.

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

Subchapter M, Physical Facilities
Division 1, Indoor Space Requirements
September 2010

No Weight (a) We determine indoor activity space by:

(1) Measuring all indoor activity space wall to wall on the inside at floor level;

(2) Rounding all measurements to the nearest inch;

(3) Excluding single-use areas. See §744.105(42) of this title (relating to What do certain words and terms mean in this chapter?) for a definition of single-use areas; and

(4) Excluding floor space occupied by permanent and stationary fixtures, such as bookcases, shelving, and storage/counter space, that is not intended for use by the children.

(b) We use the sum of the measurements to calculate the indoor activity space and to determine the maximum number of children you may care for.

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

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

Subchapter M, Physical Facilities
Division 1, Indoor Space Requirements
September 2010

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

Medium (1) The ages of the children;

Medium (2) The proximity of restroom facilities and the operation entrances and exits to the children's area; and

Medium (3) The nature of other activities and persons who may be sharing the space.

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

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

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

Subchapter M, Physical Facilities
Division 1, Indoor Space Requirements
September 2010

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

Division 2, Outdoor Space Requirements

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

Subchapter M, Physical Facilities
Division 2, Outdoor Space Requirements
September 2010

Medium (a) If children are in care for five or more consecutive hours, you must have 80 square feet of outdoor activity space for each child using the outdoor activity area at one time, or the indoor activity space must allow for room and equipment that permits children the opportunity to engage in age appropriate active play.

Low (b) If you were licensed before September 1, 2003, you do not have to comply with the outdoor activity space requirements specified in subsection (a) of this section unless the permit issued prior to September 1, 2003, is no longer valid.

Medium (c) As long as children are in care for less than five consecutive hours, you are not required to have outdoor activity space if your program provides only indoor instruction that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency that requires physical activity.

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

§744.2953. Must I fence the outdoor activity space?

Subchapter M, Physical Facilities
Division 2, Outdoor Space Requirements
September 2010

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

Low (1) Your operation is located at a public school facility operated by the local independent school district; or

Medium High (2) The only children using the outdoor activity space are five years old or older.

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

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

Subchapter M, Physical Facilities
Division 2, Outdoor Space Requirements
September 2010

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

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

Subchapter M, Physical Facilities
Division 2, Outdoor Space Requirements
September 2010

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

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

Subchapter M, Physical Facilities
Division 2, Outdoor Space Requirements
September 2010

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

Medium High — (1) Traffic patterns of vehicles and people in the area;

Medium High — (2) Ages of children in the groups;

Medium High — (3) Availability of appropriate equipment;

Medium — (4) Usage of the location by other persons when the children would be most likely to use it;

Medium High — (5) Neighborhood circumstances, hazards, and risks;

Medium High — (6) Accessibility to children and caregivers on foot;

Medium High — (7) Reasonable accessibility of restroom facilities; and

Medium High — (8) Ability to obtain assistance if needed when injury or illness occurs.

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

Subchapter M, Physical Facilities
Division 2, Outdoor Space Requirements
September 2010

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

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

Medium High (2) Develop a written plan to supervise children, both during play and while traveling to and from the outdoor activity space; and

Medium (3) Meet other conditions specified by Licensing staff, if applicable.

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

Subchapter M, Physical Facilities
Division 2, Outdoor Space Requirements
September 2010

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

Medium (1) The ages of the children;

Medium (2) The proximity of restroom facilities and the operation entrances and exits to the children's area; and

Medium (3) The nature of other activities and persons who may be sharing the space.

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

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

Division 3, Toilets and Sinks

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

Subchapter M, Physical Facilities
Division 3, Toilets and Sinks
September 2010

Medium High (a) If you are licensed to serve 13 or more children ages five years old and older, unless otherwise specified in this division, you must have one sink for every 20 children.

Medium High (b) If you are licensed to serve 13 or more children, and have children younger than five years of age in care, unless otherwise specified in this division, you must have one sink for every 17 children.

Medium High (c) If you are licensed to serve 12 or fewer children, unless otherwise specified in this division, you must have at least one sink available for the children's use.

Medium High (d) If you were licensed as a kindergarten and nursery school, or school: grades kindergarten and above, before September 1, 2003, you must have one sink for every 20 children.

Medium High (e) If you were licensed as a drop-in center before September 1, 2003, you must have at least one sink for every 25 children.

Medium High (f) A kindergarten and nursery school, school: grades kindergarten and above, and drop-in center must comply with the requirements specified in subsection (a) or (b) of this section if the permit issued prior to September 1, 2003, is no longer valid.

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

Subchapter M, Physical Facilities
Division 3, Toilets and Sinks
September 2010

Medium Hand-washing sinks must be inside the operation. Children must be able to safely and independently access the sink. Hand-washing sinks must be equipped with soap, running water, and single-use disposable towels or hot-air hand dryers. Refer to Subchapter K of this chapter (relating to Health Practices) for further information on hand washing.

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

Subchapter M, Physical Facilities
Division 3, Toilets and Sinks
September 2010

Medium (a) If you are licensed to serve 13 or more children ages five years and older, you must have one flush toilet for every 20 children.

Medium (b) If you are licensed to serve 13 or more children, and have children younger than five years of age in care, unless otherwise specified in this division, you must have one flush toilet for every 17 children.

Medium (c) If you are licensed to serve 12 or fewer children, you must have at least one flush toilet available for the children's use.

Medium (d) If you were licensed as a kindergarten and nursery school, or school: grades kindergarten and above, before September 1, 2003, you must have one flush toilet for every 20 children.

Low (e) If you were licensed as a drop-in center before September 1, 2003, you must have at least one flush toilet for every 25 children.

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

§744.3007. Where must the toilets be located?

Subchapter M, Physical Facilities
Division 3, Toilets and Sinks
September 2010

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

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

Subchapter M, Physical Facilities
Division 3, Toilets and Sinks
September 2010

Medium (a) Urinals may be counted in the ratio of children to toilets, but may not exceed 50% of the total number of toilets.

Medium (b) Restrooms containing urinals must also have flush toilets.

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

Subchapter M, Physical Facilities
Division 3, Toilets and Sinks
September 2010

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

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

Subchapter M, Physical Facilities
Division 3, Toilets and Sinks
September 2010

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

Medium — (1) Locks must be out of children's reach; or

Medium High — (2) If locks are within children's reach there must be a way to immediately open the door from the outside in an emergency, and:

Medium High — (A) The unlocking mechanism must be accessible to all employees at all times and must be demonstrated satisfactorily to Licensing staff upon request; and

Medium High — (B) An adult must be present in the restroom area when children younger than five years old are using restrooms with door locks within children's reach.

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

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

Subchapter M, Physical Facilities
Division 3, Toilets and Sinks
September 2010

No Weight (a) Yes. You may share the toilets and hand washing sinks counted in your indoor activity space with other programs at the same time you have children in care, provided you:

Medium (1) Ensure adequate facilities are available to children when needed; and

Medium (2) Have a written plan specifying how caregivers will supervise and account for children in your care that addresses:

Medium (A) The ages of the children;

Medium (B) The proximity of restroom facilities, and operation entrances and exits to the children's area; and

Medium (C) The nature of other activities and persons who may be sharing the toilet and hand washing sinks.

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

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

Division 4, Telephone

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

Subchapter M, Physical Facilities
Division 4, Telephone
September 2010

No Weight (a) Yes. You must have:

Medium High (1) A telephone at your operation with a listed telephone number; or

No Weight (2) Access to a telephone located in the same building for use in an emergency and where a person is available to:

Medium High (A) Receive incoming calls to the operation;

Medium High (B) Immediately transmit messages regarding children in care to operation caregivers; and

Medium High (C) Make outgoing calls for the operation as necessary.

Medium (b) The telephone must not be a coin-operated pay phone.

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

Division 5, Indoor Lofts

§744.3071. May I have indoor lofts?

Subchapter M, Physical Facilities
Division 5, Indoor Lofts
September 2010

No Weight (a) You may have an indoor loft that is designed and used as an extension of the classroom if you comply with the following safety standards:

Medium High (1) Caregivers must be able to adequately supervise children at all times;

Medium High (2) Stairs and steps, regardless of height, must have handrails the children can reach. Rung ladders do not require handrails; and

Medium High (3) Platforms over 20 inches in height must be equipped with protective barriers that prevent children from crawling over or falling through the barrier, or becoming entrapped.

Medium High (b) If a loft is used as indoor active play space, it must comply with minimum standards as specified in Subchapter N of this chapter (relating to Indoor and Outdoor Active Play Space and Equipment).

Helpful Information

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment

Division 1, Minimum Safety Requirements

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 1, Minimum Safety Requirements
September 2010

(a) Indoor and outdoor active play equipment used both at and away from the operation must be safe for the children as follows:

High (1) The indoor and outdoor active play equipment must be arranged so that caregivers can adequately supervise children at all times;

Medium High (2) The design, scale, and location of the equipment must be appropriate for the body size and ability of the children using the equipment;

High (3) Equipment must not have openings or angles that can entrap a child's body or body part that has penetrated the opening;

High (4) Equipment must not have protrusions or openings that can entangle something around a child's neck or a child's clothing;

High (5) Equipment must be securely anchored according to manufacturer's specifications to prevent collapsing, tipping, sliding, moving, or overturning;

High (6) All anchoring devices must be placed below the level of the playing surface to prevent tripping or injury resulting from a fall;

High (7) Equipment must not have exposed pinch, crush, or shear points, on or underneath it;

High (8) Climbing equipment, swings, or inflatables must not be installed over asphalt or concrete unless the asphalt or concrete is covered with properly installed unitary surfacing materials as specified in §744.3259 of this title (relating to What are unitary surfacing materials?) and §744.3261 of this title (relating to How should unitary surfacing materials be installed?);

High (9) Porches or platforms more than 20 inches in height for pre-kindergarten and younger children, and more than 30 inches in height for school-age children, must be equipped with protective barriers that surround the elevated surface except for entrances and exits and that prevent children from crawling over or through the barrier;

High (10) Stairs and steps on climbing equipment, regardless of height, must have handrails the children can reach. Rung ladders do not require handrails; and

(continued)

Medium (11) If you are licensed to provide only care in a public school facility operated by the local independent school district, you must inform parents in writing at the time they enroll their child if the active play equipment or space you plan to use at the public school facility does not meet Licensing standards specified in this subchapter. Otherwise, children must not be allowed to use equipment that does not meet Licensing standards.

(b) Equipment that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency, such as gym floors and mats, platforms and steps used in gymnastics programs, are not subject to the safety requirements specified in subsection (a)(8) – (10) of this section provided:

Medium High (1) The equipment or surfacing is installed and used according to manufacturer's instructions or industry standards;

Medium High (2) A child's use of the equipment is supervised by trained personnel;

Medium (3) The safety practices employed by the operation and the risks associated with the use of each type of equipment are outlined in your policies and procedures; and

Medium (4) Parents provide written consent before children use the equipment. Written consent must be kept on file at the operation in the child's record.

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

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 1, Minimum Safety Requirements
September 2010

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

Medium High (1) Floor surfaces under indoor equipment designed for climbing must have a unitary shock-absorbing surface that will effectively cushion the fall of a child. The surface must be installed in the use zone and maintained according to the manufacturer's directions. See §744.3201 of this title (relating to What does Licensing mean by the term "use zone"?). Carpeting alone, even if it is installed over thick padding, is not an acceptable resilient surface under indoor climbing equipment;

(continued)

Medium High (2) Platforms over 20 inches in height for pre-kindergarten and younger children, and more than 30 inches in height for school-age children, must be equipped with protective barriers that prevent children from crawling over or falling through the barrier, or becoming entrapped; and

No Weight (3) If your program uses specialized equipment that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency, such as parallel bars and trampolines used in gymnastics programs:

Medium High (A) The equipment must be installed and used according to manufacturer's instructions and supervised by trained personnel;

Medium (B) The safety practices employed by the operation and the risks associated with the use of each type of equipment must be thoroughly outlined in your policies and procedures; and

Medium (C) Parents must provide written consent before children may use the equipment. Written consent must be kept on file at the operation in the child's record.

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 1, Minimum Safety Requirements
September 2010

(a) Yes. Children must not use the following types of equipment at or away from the operation:

Medium High (1) Heavy swings made of metal or that have metal components, such as animal figure swings;

High (2) Equipment that allows children to fall inside the structure and onto other parts of the structure, such as certain styles of monkey bars or jungle gyms;

Medium High (3) Trampolines, except those less than four feet in diameter that are no higher than 12 inches above a properly installed and maintained resilient surface;

Medium High (4) Swinging exercise rings and trapeze bars on long chains or swinging rope;

Medium High (5) Multiple occupancy swings, such as teeter-totters, gliders, or chair swings (other than tire swings); or

Medium (6) Swinging gates and giant strides.

(b) Equipment that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency, such as trampolines and exercise rings and ropes used in gymnastics programs, may be used if:

Medium High (1) The equipment is installed and used according to manufacturer's instructions;

Medium High (2) A child's use of the equipment is supervised by trained personnel;

Medium (3) The safety practices employed by the operation and the risks associated with the use of each type of equipment are outlined in your policies and procedures; and

Medium (4) Parents provide written consent before children use the equipment. Written consent must be kept on file at the operation in the child's record.

(continued)

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

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 1, Minimum Safety Requirements
September 2010

(a) Yes. Children younger than five years of age must not be allowed to use the following pieces of equipment at or away from the operation:

Medium High (1) Free standing arch climbers;

Medium High (2) Free standing climbing pieces with flexible parts;

Medium High (3) Fulcrum seesaws;

Medium High (4) Log rolls;

Medium High (5) Spiral slides with more than one 360 degree turn; or

Medium High (6) Track rides.

(b) In addition, children younger than four years of age must not be allowed to use the following pieces of equipment at or away from the operation:

Medium High (1) Chain or cable walks;

Medium High (2) Horizontal ladders;

Medium High (3) Vertical slide poles; or

Medium High (4) Over-head swinging rings and parallel bars.

(c) Equipment that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency, such as swinging rings and parallel bars used in gymnastics programs, may be used if:

Medium High (1) The equipment is installed and used according to manufacturer's instructions;

Medium High (2) A child's use of the equipment is supervised by trained personnel;

Medium (3) The safety practices employed by the operation and the risks associated with the use of each type of equipment are outlined in your policies and procedures; and

Medium (4) Parents provide written consent before children use the equipment. Written consent must be kept on file at the operation in the child's record.

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

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 1, Minimum Safety Requirements
September 2010

(a) The maximum height of the highest designated play surface on active play equipment is based on the age of children who will be using the equipment.

(b) The maximum height allowed is:

Medium High (1) Five feet for equipment designed to be used by children younger than five years old; or

Medium High (2) Seven feet for equipment designed to be used by children who are at least five years old.

(c) Equipment that is fundamental to the core development of a skill, talent, ability, expertise, or proficiency, such as parallel bars and trampolines used in gymnastics programs, may exceed the maximum height allowed if:

Medium High (1) The equipment is installed and used according to manufacturer's instructions;

Medium High (2) A child's use of the equipment is supervised by trained personnel;

Medium (3) The safety practices employed by the operation and the risks associated with the use of each type of equipment are outlined in your policies and procedures; and

Medium (4) Parents provide written consent before children use the equipment. Written consent must be kept on file at the operation in the child's record.

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

§744.3111. Do the height requirements apply to my operation if it was licensed before September 1, 2010?

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 1, Minimum Safety Requirements
September 2010

(a) If you were licensed after September 1, 2003, and before September 1, 2010, and unless you meet one of the conditions specified in subsection (b) of this section, the maximum height of active play equipment allowed is:

Low (1) Six feet for equipment designed to be used by children under the age of five years old; or

Low (2) Eight feet for equipment designed to be used by children ages five years old and older.

Low (b) An operation licensed before September 1, 2010, must comply with the equipment height requirements specified in this division if the operation re-designs the existing playground or adds new playground equipment. The permit holder must meet equipment height requirements specified in this division as the changes are made. You must submit a written plan for compliance to us upon request.

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 1, Minimum Safety Requirements
September 2010

Medium High (a) The director or designee must inspect the active play space and equipment daily before children begin to play to ensure there are no hazards present.

Medium (b) The director or designee must conduct at least monthly inspections of the active play space and equipment, utilizing a general maintenance checklist or safety checklist that includes checking the equipment and surfacing material for normal wear and tear, broken or missing parts, debris or foreign objects, drainage problems, or other hazards.

Medium High (c) The director or designee must ensure hazards or defects identified during inspections are removed or repaired promptly, and must arrange for protection of the children or prohibit use of hazardous equipment until the hazards can be removed or repairs can be made.

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

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

Division 2, Swings

§744.3151. What are the safety requirements for swings?

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 2, Swings
September 2010

Medium High (a) All swing seats must be constructed of durable, lightweight, rubber, or plastic material.

Medium High (b) Edges of all swing seats must be smooth or rounded and have no protrusions.

Medium High (c) Swings must not be attached to a composite play structure.

No Weight (d) A full bucket seat swing, intended for children under four years of age to use with adult assistance may be used provided the distance between the bottom of the unoccupied swing seat is at least 24 inches above the protective surfacing.

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 2, Swings
September 2010

Yes. Tire swings must:

Medium High (1) Not be made from heavy truck tires, or tires with exposed steel-belted radials;

Medium High (2) Not be suspended from a composite structure or with other swings in the same swing bay;

Medium High (3) Have drainage holes drilled in the underside of the tire and maintained to facilitate water drainage; and

Medium High (4) Have a minimum clearance between the seating surface of a tire swing and the uprights of the supporting structure of 30 inches or more when the tire is in a position closest to the support structure.

Division 3, Use Zones

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 3, Use Zones
September 2010

No Weight The use zone is the surface area under and around a piece of equipment onto which a child falling from or exiting from the equipment would be expected to land. Other than the equipment itself, the use zone must be free of obstacles that a child could run into or fall on top of and be injured.

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 3, Use Zones
September 2010

No Weight — The use zone for stationary equipment, excluding slides and soft contained play equipment, must extend a minimum of six feet in all directions from the perimeter of the equipment. Use zones for stationary equipment must not overlap other use zones.

> *A composite play structure refers to playscapes, or structures containing equipment for a variety of activities, such as slides, climbing apparatus, bridges and platforms.*

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 3, Use Zones
September 2010

Medium High — (a) The use zone in front of the access and to the sides of a slide must extend a minimum of six feet from the perimeter of the equipment.

Medium High — (b) For slides six feet high or less, the use zone in front of the exit of a slide must extend at least six feet.

Medium High — (c) For slides greater than six feet high, the use zone in front of the exit of a slide must be equal to the distance from the slide platform to the protective surfacing up to a maximum of eight feet.

Medium High — (d) The use zone in front of the slide exit must not overlap the use zone of any other equipment.

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 3, Use Zones
September 2010

Medium High — (a) The use zone to the front and rear of to-fro swings (single-axis swings) must extend twice the height of the vertical distance from the swing beam to the protective surfacing below.

Medium High — (b) The use zone to the front and rear of the to-fro swing must not overlap any other use zone.

Medium High — (c) The use zone around the sides of the to-fro swing structure (frame which supports the swings) must be at least six feet and may overlap the use zone of an adjacent swing structure.

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 3, Use Zones
September 2010

Medium High (a) The use zone for tire swings or other multi-axis swings must extend in all directions for a distance equal to the distance from the swing beam to the top of the sitting surface of the tire, plus six feet.

Medium High (b) The use zone specified is subsection (a) of this section must not overlap any other use zone.

Medium High (c) The use zone on the sides of the tire swing support structure must be at least six feet and may overlap the use zone on the sides of an adjacent swing support structure.

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 3, Use Zones
September 2010

Medium High (a) The use zone to the front and rear of the bucket swing must be at least two times the vertical distance from the swing beam to the top of the swing-sitting surface.

Medium High (b) The use zone specified in subsection (a) of this section must not overlap any other use zone.

Medium High (c) The use zone on the sides of the bucket swing structure must be at least six feet and may overlap the use zone on the sides of an adjacent swing support structure.

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 3, Use Zones
September 2010

Medium High (a) The use zone for rotating or rocking equipment on which the child sits must be at least six feet from the perimeter when not in use.

Medium High (b) The use zone for rotating or rocking equipment or track rides on which the child stands or rides must be at least seven feet from the perimeter of the equipment when not in use.

Medium High (c) The use zone for rocking and rotating equipment must not overlap any other use zone.

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 3, Use Zones
September 2010

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

Medium Low (1) Four feet from climbing structures;

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

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

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

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

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

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

Division 4, Surfacing

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 4, Surfacing
September 2010

Medium High (a) There must be loose-fill surfacing material or unitary surfacing material in the use zones for all climbing, rocking, rotating, bouncing, or moving equipment, slides, and swings.

Medium High (b) The height of the highest designated play surface on the equipment will determine the type and depth of loose materials or the attenuation rating (thickness) of the unitary materials.

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

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 4, Surfacing
September 2010

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

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 4, Surfacing
June 2014

Medium High — (a) If you use loose-fill surfacing materials in your outdoor active play space, you must install and maintain nine inches or more of uncompressed loose-fill material in the use zones. However, if you were licensed before September 1, 2010, you only have to maintain at least six inches of loose-fill surfacing materials until September 1, 2015; after which date you must maintain at least nine inches of uncompressed loose-fill surfacing materials.

Medium High — (b) You must not install loose-fill surfacing materials over concrete or asphalt.

Medium — (c) You must mark all equipment support posts to indicate the depth at which the loose-fill surfacing material must be maintained under and around the equipment.

Medium High — (d) You must ensure the loose-fill materials are maintained at the proper depth at all times.

Medium High — (e) Loose-fill surfacing materials must not be used indoors.

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

§744.3259. What are unitary surfacing materials?

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 4, Surfacing
September 2010

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

§744.3261. How should unitary surfacing materials be installed?

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 4, Surfacing
September 2010

Medium High (a) If you use unitary materials, they must be installed and maintained according to manufacturer's specifications.

Medium High (b) Unitary materials may be installed over concrete or asphalt only if recommended by the manufacturer.

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

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 4, Surfacing
September 2010

Medium If you use unitary surfacing materials, you must have test data from the manufacturer showing the impact rating of the material (the maximum height of equipment that may be installed over the surfacing material), and installation and maintenance requirements. This documentation must be at the operation and made available for review by parents and Licensing staff upon request during your hours of operation.

Division 5, Soft Contained Play Equipment

§744.3301. What is soft contained play equipment?

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 5, Soft Contained Play Equipment
September 2010

Soft contained play equipment is a play structure that:

Medium High (1) Is fully enclosed with pliable material such as net, plastic, or fabric;

Medium High (2) The user enters to access one or more play components; and

Medium High (3) Allows caregivers to supervise children as specified in §744.1205 of this title (relating to What does Licensing mean by "supervise children at all times"?).

§744.3303. Are there additional safety requirements for soft contained play equipment?

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 5, Soft Contained Play Equipment
September 2010

Yes. Soft contained play equipment must:

Medium High (1) Not have to-fro, bucket, or tire swings attached inside or outside of the structure;

Medium High (2) Have no more than a 24-inch difference in height between two connecting platforms;

Medium High (3) Have use zones as outlined in §744.3305 of this title (relating to How do I measure the use zone for soft contained play equipment?) that are free of obstacles and covered with unitary surfacing material;

Medium High (4) Be installed, maintained and cleaned according to manufacturer's instructions; and

Medium High (5) Include closer supervision when in use by requiring at least one caregiver to be positioned at each level of the play area.

§744.3305. How do I measure the use zone for soft contained play equipment?

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 5, Soft Contained Play Equipment
September 2010

Medium High (a) The use zone for entrances and exits to the soft contained play equipment, excluding slide exits, is a minimum of five feet from all portions of the entrance and exit which are outside of the contained area of the equipment.

Medium High (b) The use zone in front of slide exits must extend a minimum of five feet if the slide run-out is 36 inches or greater. If the slide run-out is less than 36 inches, the use zone at the end of the slide must be six feet. In addition, this use zone may not overlap with any other use zones.

Medium High (c) Entrances and exits that terminate inside of the soft contained play equipment are exempt from use zone requirements.

Medium High (d) External portions of the soft contained play equipment that contain no designated play surfaces and serve only to enclose the equipment are exempt from use zone requirements.

Medium High (e) The critical height of resilient surfacing material must be equal to the highest designated play surface outside of the contained area of the equipment or for one foot, which ever is greater.

Division 6, Inflatables

§744.3351. May I use inflatable active play equipment?

Subchapter N, Indoor and Outdoor Active Play Space and Equipment
Division 6, Inflatables
September 2010

Yes, you may use inflatable equipment both at and away from your operation as long as:

Medium High (1) Enclosed inflatables (such as bounce houses or moon walks) are used by one child at a time;

Medium High (2) Open inflatables (such as obstacle courses, slides, or games) are used according to the manufacturer's instructions; and

Medium High (3) Inflatables that include water activity also comply with all applicable requirements in Subchapter O of this title (relating to Swimming Pools and Wading/Splashing Pools).

Subchapter O, Swimming Pools and Wading/Splashing Pools

§744.3401. What safety precautions must I follow when children in my care use a swimming pool?

Subchapter O, Swimming Pools and Wading/Splashing Pools
September 2010

In addition to complying with the child/caregiver ratios specified in §744.1905 of this title (relating to What are the child/caregiver ratios for swimming activities?) and other safety requirements specified in §744.1907 of this title (relating to Must a certified lifeguard be on duty when children are swimming in more than two feet of water?) and §744.1911 of this title (relating to Must persons who are counted in the child/caregiver ratio during swimming know how to swim?), you must comply with the following safety precautions when any child uses a swimming pool (more than two feet of water) both at and away from your operation:

High (1) A minimum of two life-saving devices must be available;

High (2) One additional life-saving device must be available for each 2,000 square feet of water surface;

High (3) Drain grates must be in place, in good repair, and must not be able to be removed without using tools;

High (4) Pool chemicals and pumps must be inaccessible to any child;

High (5) Machinery rooms must be locked when any child is present;

High (6) Employees must be able to clearly see all parts of the swimming area;

High (7) The bottom of the pool must be visible at all times;

High (8) An adult must be present who is able to immediately turn off the pump and filtering system when any child is in a pool; and

High (9) All indoor/outdoor areas must be free of furniture and equipment that any child could use to scale a fence or barrier or release a lock.

The power of suction of a pool drain often requires that the pump be turned off before a child can be removed, therefore immediate unobstructed access is necessary.

§744.3403. How should the swimming pool be built and maintained?

Subchapter O, Swimming Pools and Wading/Splashing Pools
September 2010

High Swimming pools used both at and away from the operation must be built and maintained according to the standards of the Department of State Health Services for public pools and any other applicable state or local regulations.

§744.3405. Do the same safety precautions apply for above-ground pools?

Subchapter O, Swimming Pools and Wading/Splashing Pools
September 2010

High — Yes. Above-ground pools must meet all pool safety requirements specified in this subchapter and must have a barrier that prevents a child's access to the pool.

§744.3407. Must I have a fence around a swimming pool at my operation?

Subchapter O, Swimming Pools and Wading/Splashing Pools
September 2010

High — (a) You must enclose a swimming pool at your operation with a six-foot fence or wall that prevents children's access to the pool.

High — (b) Fence gates leading to the pool area must have self-closing and self-latching hardware out of children's reach. Gates must be locked when the pool is not in use.

High — (c) Doors from the operation leading to the pool area must have a lock out of children's reach that can only be opened by an adult.

High — (d) These doors and gates must not be designated as fire and emergency evacuation exits.

§744.3409. Does having a fence relieve me of the duty to supervise children's access to the pool?

Subchapter O, Swimming Pools and Wading/Splashing Pools
September 2010

High — No. Although a fence and locked access provides a layer of protection for a child who strays from supervision and may deter some children from entering the pool area, these do not replace the need for constant adult supervision and monitoring of safety features to protect children from unsupervised access to the pool.

§744.3411. What are the safety requirements for wading pools?

Subchapter O, Swimming Pools and Wading/Splashing Pools
September 2010

No Weight — (a) Wading/splashing pools (two feet of water or less) at your operation must be:

Medium High — (1) Stored out of children's reach when not in use;

High — (2) Drained at least daily and sanitized; and

High — (3) Stored so they do not hold water.

Medium High — (b) You must comply with the safety precautions specified in §744.3401 of this title (relating to What safety precautions must I follow when children in my care use a swimming pool?) when using wading/splashing pools away from your operation.

> *Wading/splashing pools with no filtering system are meant to be drained, sanitized and stored out of children's reach after each use.*

§744.3413. Are there specific safety requirements for sprinkler play?

Subchapter O, Swimming Pools and Wading/Splashing Pools
September 2010

Medium High

You must ensure that no child uses sprinkler equipment on or near a hard, slippery surface, such as a driveway, sidewalk, or patio. You must store sprinkler equipment and water hoses out of children's reach when not in use.

§744.3415. Can children in my care swim in a body of water other than a swimming pool, such as a lake, pond, or river?

Subchapter O, Swimming Pools and Wading/Splashing Pools
September 2010

High

No, you must not allow children to swim in a lake, pond, river, or a body of water other than a swimming pool or wading pool that complies with the rules specified in this subchapter.

Subchapter P, Fire Safety and Emergency Practices

Division 1, Fire Inspection

§744.3501. Must my operation have an annual fire inspection?

Subchapter P, Fire Safety and Emergency Practices
Division 1, Fire Inspection
September 2010

High

(a) Your operation must have a fire inspection before we issue your initial permit and at least once every 12 months, unless your operation is in a public school facility operated by the local independent school district.

Medium High

(b) If an inspection is required, a state or local fire marshal must conduct the inspection. If an inspection is not available, you must provide documentation of this from a state or local fire marshal or county judge.

§744.3503. How do I document that a fire inspection has been completed?

Subchapter P, Fire Safety and Emergency Practices
Division 1, Fire Inspection
September 2010

Medium High

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

§744.3505. Must I make all corrections specified in the fire-inspection report?

Subchapter P, Fire Safety and Emergency Practices
Division 1, Fire Inspection
September 2010

High

If required, you must comply with all corrections, restrictions, or conditions specified by the inspector in the fire inspection report, letter, or checklist.

Division 2, Emergency Preparedness

§744.3551. What is an emergency preparedness plan?

Subchapter P, Fire Safety and Emergency Practices
Division 2, Emergency Preparedness
September 2016

No Weight

An emergency preparedness plan is designed to ensure the safety of children during an emergency by addressing staff responsibility and facility readiness with respect to emergency evacuation, relocation, and sheltering/lock-down. The plan addresses the types of responses to emergencies most likely to occur in your area including:

(1) An evacuation of the children and caregivers to a designated safe area in an emergency such as a fire or gas leak;

(2) A relocation of the children and caregivers to a designated, alternate shelter in an emergency such as a flood, a hurricane, medical emergency, or communicable disease outbreak; and

(3) The sheltering and lock-down of children and caregivers within the operation to temporarily protect them from situations such as a tornado, volatile person on the premises, or an endangering person in the area.

You may want to check with your local fire and health departments when creating your emergency preparedness plan since they may have resources and guidelines that you may include in your plan.

§744.3553. What must my emergency preparedness plan include?

Subchapter P, Fire Safety and Emergency Practices
Division 2, Emergency Preparedness
September 2016

Your emergency preparedness plan must include written procedures for:

Medium High

(1) Evacuation, relocation, and sheltering/lock-down of children including:

(A) The first responsibility of staff in an emergency evacuation or relocation is to move the children to a designated safe area or alternate shelter known to all employees, caregivers, parents, and volunteers;

(B) How children will be evacuated or relocated to the designated safe area or alternate shelter, including but not limited to specific procedures for evacuating and relocating children with limited mobility or who otherwise may need assistance in an emergency, such as children who have mental, visual, or hearing impairments;

(C) An emergency evacuation and relocation diagram as outlined in §744.3561 of this title (relating to Must I have an emergency evacuation and relocation diagram?);

(continued)

(D) The staff responsibility in a sheltering/lock-down emergency for the orderly movement of children to a designated location within the operation where children should gather;

(E) Name and address of the alternate shelter away from the operation you will use as needed; and

(F) How children in attendance at the time of the emergency will be accounted for at the designated safe area or alternate shelter;

Medium High (2) Communication, including:

(A) The emergency telephone number that is on file with us; and

(B) How you will communicate with local authorities (such as fire, law enforcement, emergency medical services, health department), parents and us; and

Medium High (3) How your staff will evacuate and relocate with the essential documentation including:

(A) Parent and emergency contact telephone numbers for each child in care;

(B) Authorization for emergency care for each child in care; and

(C) The child tracking system information for children in care;

Medium High (4) How your staff will continue to care for children until each child has been released; and

Medium High (5) How you will reunify the children with their parents as the evacuation, relocation, or sheltering/lock-down is lifted.

- *Keep in mind that children may become anxious or excited during an emergency so it is important that caregivers remain calm.*
- *According to the AAP, a thorough and safe evacuation plan includes a designated location that allows the children to get at least 50 feet away from the building, does not require the children or caregivers to cross the street, and provides shelter if the children cannot return to the building.*

§744.3557. Who must coordinate the implementation of an emergency preparedness plan?

Subchapter P, Fire Safety and Emergency Practices
Division 2, Emergency Preparedness
September 2010

Medium (a) The director is responsible for implementing the emergency preparedness plan.

Medium (b) The director may also designate additional employees to be in charge during an emergency evacuation and relocation that occurs when the director is not at the operation.

§744.3559. Must I practice my emergency preparedness plan?

Subchapter P, Fire Safety and Emergency Practices
Division 2, Emergency Preparedness
September 2016

The following components of your operation's emergency preparedness plan must be practiced as specified below:

Medium High (1) You must practice a fire drill every month. The children must be able to safely exit the building within three minutes;

Medium High (2) You must practice a sheltering drill for severe weather at least four times in a calendar year;

Medium High (3) You must practice a lock-down drill for a volatile or endangering person on the premises or in the area at least four times in a calendar year; and

Medium (4) You must document these drills, including the date of the drill, time of the drill, and length of time for the evacuation, sheltering, or lock-down to take place.

We recommend that you practice your drills at different times of the day to include various children and employees engaged in different activities.

§744.3561. Must I have an emergency evacuation and relocation diagram?

Subchapter P, Fire Safety and Emergency Practices
Division 2, Emergency Preparedness
September 2016

Medium High (a) Yes. Your emergency evacuation and relocation diagram must be on file at the operation and must show the following:

Medium High (1) A floor plan of your operation;

Medium High (2) Two exit paths from each room, unless a room opens directly to the outdoors at ground level;

Medium High (3) The designated location outside of the operation where all caregivers and children meet to ensure everyone has exited the operation safely; and

Medium High (4) The designated location inside the operation where all caregivers and children take shelter from threatening weather.

Medium High (b) You must post an emergency evacuation and relocation diagram in each room the children use. You must post the plan near the entrance and/or exit of the room and where children and employees may easily view the diagram.

§744.3563. How many exits must my operation have?

Subchapter P, Fire Safety and Emergency Practices
Division 2, Emergency Preparedness
September 2010

Medium High (a) The operation must have at least two exits to the outside that are located in distant parts of each building.

High (b) If any doors open into a fenced yard, the children must be able to open the doors easily from the inside.

High (c) You may not count doors that are blocked or locked as exits.

Medium High (d) An exit through a kitchen or other hazardous area may not be one of the required exits unless the state or local fire marshal specifically approves in writing.

High (e) Doors and gates leading into a pool area may not be counted as an exit.

Medium High (f) A window may be used as a designated fire exit only if all children and caregivers are physically able to exit through the window to the ground outside safely and quickly.

§744.3565. Must I have emergency lighting in case of an emergency evacuation?

Subchapter P, Fire Safety and Emergency Practices
Division 2, Emergency Preparedness
September 2010

Medium High Yes. You must have a source of emergency lighting that is approved by the state or local fire marshal, or battery-powered lighting, available in each classroom in case of electrical failure.

Division 3, Fire Extinguishing and Smoke Detection Systems

§744.3601. Must my operation have a fire-extinguishing system?

Subchapter P, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2010

High Your operation must have a fire-extinguishing system. This may be a sprinkler system and/or fire extinguishers. If your program is located in a public school facility operated by the local school district, the fire-extinguishing system utilized by the school complies with this standard.

§744.3603. Who must approve my fire-extinguishing system?

Subchapter P, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2010

Medium High The state or local fire marshal must approve a sprinkler system and/or fire extinguishers in your operation. If an inspection is not available, you must have at least one fire extinguisher rated 3A-40BC in the operation.

§744.3605. Where must I mount fire extinguishers?

Subchapter P, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2010

Medium High You must mount the fire extinguisher on the wall by a hanger or bracket. The top of the extinguisher must be no higher than five feet above the floor and the bottom at least four inches above the floor or any other surface. If the state or local fire marshal has different mounting instructions, you may follow those instructions. The fire extinguisher must be readily available for immediate use by employees and caregivers.

- *The first priority for caregivers is to remove the children from the operation safely and quickly. Fighting a fire is secondary to the safe exit of the children and caregivers.*
- *Mounting the extinguisher ensures easy access for swift use and prevents accidental discharge that may result from tipping or being knocked over.*

§744.3607. How often must I inspect and service the fire extinguisher(s)?

Subchapter P, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2010

Medium High (a) The director or designee must inspect fire extinguisher(s) monthly. The date of the inspection and the name of the employee must be recorded.

Medium High (b) Fire extinguishers must be serviced as required by manufacturer's instructions, or as required by the state or local fire marshal.

§744.3609. How often must I inspect a sprinkler system?

Subchapter P, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2010

Medium High The system monitoring company or the state or local fire marshal must test sprinkler systems at least annually. You must keep the most recent inspection report at the operation for review during your hours of operation. The documentation must indicate the date of the inspection and the inspector's name and telephone number.

§744.3611. Must my operation have a smoke-detection system?

Subchapter P, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2010

High (a) Your operation must have a working smoke-detection system. This may be an electronic alarm and smoke-detection system, or individual electric or battery-operated smoke detectors located in each room used by children, or both.

High (b) If your operation is located in a public school facility operated by the local independent school district, the smoke-detection system utilized by the school complies with this standard.

§744.3613. Who must approve my operation's smoke-detection system?

Subchapter P, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2010

High

The state or local fire marshal must approve electronic alarm and smoke-detection systems. If an inspection is not available, you must have at least one working smoke detector in each room used by children.

§744.3615. How often must I have an electronic smoke alarm system tested?

Subchapter P, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2010

Medium High

The monitoring company or the state or local fire marshal must test an electronic smoke alarm system at least annually. You must keep documentation of the inspection at the operation for review during your hours of operation. The documentation must indicate the date of the inspection and the inspector's name and telephone number.

§744.3617. How must smoke detectors be installed at my operation?

Subchapter P, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2010

High

If you use smoke detectors, they must be installed and maintained according to the manufacturer's instructions or in compliance with the state or local fire marshal's instructions.

§744.3619. How often must the smoke detectors at my operation be tested?

Subchapter P, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2010

High

The director or designee must test all smoke detectors monthly. The date of the test and the name of the employee who does the testing must be documented and kept at the operation for review during your hours of operation.

A monthly test of smoke detectors is easily handled by operation employees. Monthly testing ensures detectors are working properly and helps ensure the safety of the children and employees in case of fire.

Division 4, Gas and Propane Tanks

§744.3651. Must my operation be inspected for gas leaks?

Subchapter P, Fire Safety and Emergency Practices
Division 4, Gas and Propane Tanks
September 2010

Medium High — If your operation uses natural or liquid propane (LP) gas, your operation must be inspected for gas leaks before we issue your initial permit, and once every two years after your permit is issued, unless your operation is located in a public school building operated by the local independent school district.

§744.3653. Who must conduct the inspection for gas leaks?

Subchapter P, Fire Safety and Emergency Practices
Division 4, Gas and Propane Tanks
September 2010

Medium High — (a) If your operation uses natural gas, you must have your operation inspected for gas leaks by a licensed plumber or a gas company official.

Medium High — (b) If your operation uses liquid propane (LP)-gas, you must have your LP-gas system inspected for proper installation and leaks by a licensed LP-gas servicing company or licensed plumber who is also licensed with the LP-gas section of the Texas Railroad Commission.

§744.3655. How do I document that a gas leak inspection has been completed?

Subchapter P, Fire Safety and Emergency Practices
Division 4, Gas and Propane Tanks
September 2010

Medium High — A written gas inspection report must show your gas system is free of leaks and must indicate the date of the inspection, as well as the name and telephone number of the inspector. You must keep the most recent inspection report on file at your operation.

§744.3657. Must I make all corrections specified in the gas inspection report?

Subchapter P, Fire Safety and Emergency Practices
Division 4, Gas and Propane Tanks
September 2010

High — You must comply with all corrections, conditions, or restrictions specified in the gas inspection report within the timeframes specified by the inspector.

Division 5, Heating Devices

§744.3701. What steps must I take to ensure that heating devices do not present hazards to children?

Subchapter P, Fire Safety and Emergency Practices
Division 5, Heating Devices
September 2010

High (a) Gas appliances must have metal tubing and connections, be in good repair, and be free from leaks.

High (b) Open flame heaters (heaters where the flame can be easily touched or accessed) are prohibited.

High (c) Space heaters must be enclosed and have the seal of approval of a United States test laboratory or be approved by the state or local fire marshal.

High (d) You must safeguard floor and wall furnace grates, steam and hot water pipes, and electric space heaters so that children do not have access to them.

High (e) Liquid fuel heaters are prohibited.

High (f) Gas fuel heaters, fireplaces, and wood-burning stoves must be properly vented to the outside.

High (g) If you use a fireplace, wood-burning stove, or space heater, you must install a screen or guard with sufficient strength to prevent children from falling into the fire or against the stove or heater.

Proper venting of heating equipment can prevent accumulation of carbon monoxide gas inside a building. Carbon monoxide is a colorless, odorless, poisonous gas formed when heating units that burn fuel with a flame does not have a sufficient source of combustion air. Carbon-containing fuel that is not burned completely can cause asphyxiation.

Division 6, Carbon Monoxide Detection Systems

§744.3751. Must my operation have a carbon monoxide detection system?

Subchapter P, Fire Safety and Emergency Practices
Division 6, Carbon Monoxide Detection Systems
September 2010

High — Your operation must be equipped with a working carbon monoxide detection system, unless it is located in a school facility that complies:

Medium High — (1) With the school facility standards adopted by the commissioner of education under the Education Code, §46.008; or

Medium — (2) With standards adopted by the board of a local school district that are similar to those described in paragraph (1) of this section.

§744.3753. What type of carbon monoxide detection system must I install?

Subchapter P, Fire Safety and Emergency Practices
Division 6, Carbon Monoxide Detection Systems
September 2010

You must install:

Medium High — (1) Individual electric (plug-in or hardwire) or battery-operated carbon monoxide detectors that meet Underwriters Laboratories Inc. requirements (UL-Listed); or

Medium High — (2) An electronic carbon monoxide detection system connected to an electronic alarm/smoke detection system that is UL-Listed.

§744.3755. How many carbon monoxide detectors must be installed in my operation?

Subchapter P, Fire Safety and Emergency Practices
Division 6, Carbon Monoxide Detection Systems
September 2010

Medium High — (a) If you use electric or battery-operated carbon monoxide detectors:

Medium High — (1) At least one detector must be installed on every level of each building in the child-care operation; and

Medium High — (2) The detector(s) must be installed in compliance with the state or local fire marshal's instructions.

Medium High — (b) If you use an electronic carbon monoxide detection system connected to an alarm/smoke detection system, the system must be installed according to the state or local fire marshal's instructions.

If your state or local fire marshal does not inspect your operation or does not have specific requirements for installation of carbon monoxide detectors, follow the manufacturer's instructions for proper location and installation of detectors.

§744.3757. How often must I inspect and service the carbon monoxide detection system?

Subchapter P, Fire Safety and Emergency Practices
Division 6, Carbon Monoxide Detection Systems
September 2010

Medium High (a) If you use electric or battery-operated carbon monoxide detectors, you must:

Medium High (1) Install a new battery in each battery-operated detector at least annually;

Medium High (2) Test all detectors monthly;

Medium High (3) Document the date of each monthly test, date of each installation of new batteries, and the name of the employee who does each testing or installment of new batteries; and

Medium High (4) Keep this documentation at the operation for review during your hours of operation.

Medium High (b) If you use an electronic carbon monoxide detection system connected to an alarm/smoke detection system, you must:

Medium (1) Ensure the system monitoring company or the state or local fire marshal tests the system at least annually;

Medium High (2) Keep the most recent inspection report at the operation for review during your hours of operation;

Medium (3) Ensure the report includes the date of the inspection and the inspector's name and telephone number; and

Medium High (4) Make any corrections required in the report.

Subchapter Q, Transportation

§744.3801. What types of transportation does Licensing regulate?

Subchapter Q, Transportation
September 2010

Medium

We regulate any transportation provided by or for the operation, including but not limited to, transportation between home and school, between school and the operation, the operation and home, the operation or school and field trip locations or other drop off locations, authorized by the parent.

§744.3803. What type of vehicle may I use to transport children?

Subchapter Q, Transportation
September 2010

Medium High

(a) We do not regulate the type of vehicle you use to transport children, although we recommend that you check with the Texas Department of Motor Vehicles or refer to the federal motor vehicle safety standards regulating transportation to and from school and your operation.

Medium High

(b) For the purpose of this chapter, we categorize vehicle types as:

(1) General purpose vehicle--passenger vehicles as defined in the Texas Transportation Code §545.412, and buses that do not meet the federal motor vehicle safety standards for school buses or multi-function school activity buses (MFSAB);

(2) Small school bus--school buses and MFSABs that meet federal motor vehicle safety standards for school buses and MFSABs respectively and have a gross vehicle weight rating (GVWR) of 10,000 pounds or less; and

(3) Large school bus--school buses and MFSABs that meet federal motor vehicle safety standards for school buses and MFSABs respectively and have a GVWR of greater than 10,000 pounds.

Medium High

(c) All vehicles must be maintained in safe operating condition at all times.

§744.3805. What safety precautions must I take when loading and unloading children from the vehicle?

Subchapter Q, Transportation
September 2010

You must take the following precautions when loading and unloading children from any vehicle, including any type of bus:

High (1) You must load and unload children at the curbside of the vehicle or in a protected parking area or driveway;

High (2) You must not allow a child to cross a street unless the child is accompanied by an adult anytime before entering or after leaving a vehicle;

High (3) You must account for all children exiting the vehicle before leaving the vehicle unattended; and

High (4) You must never leave a child unattended in a vehicle.

§744.3807. What child safety restraint system must I use when I transport children?

Subchapter Q, Transportation
September 2010

Medium High (a) You must secure each child in a rear-facing convertible child safety seat, forward-facing child safety seat, child booster seat, safety vest, harness, or a safety belt, as appropriate to the child's age, height, and weight according to manufacturer's instructions for all vehicles specified in subsection (d) of this section, unless otherwise noted in this subchapter.

Medium High (b) All child passenger safety restraint systems must meet federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration, and must be properly secured in the vehicle according to manufacturer's instructions.

Medium High (c) A child 12 years old or younger must not ride in the front seat of a vehicle.

(continued)

No Weight (d) The following safety restraint devices for a child must be used when the vehicle is on and during all times when the vehicle is in motion:

Weight	If the child is...	Being transported in this type of vehicle as specified in §746.5603(b) of this title (relating to What type of vehicle may I use to transport children?)…	Then the child must be secured in…
High	(1) Three years of age and weighs more than 20 pounds	All vehicles	A rear-facing or forward-facing child safety seat, safety vest or harness according to the manufacturer's instructions;
High	(2) Four years of age and weighs 40 pounds or less	(A) General purpose vehicle and small school bus (B) Large school bus	A forward-facing child safety seat, safety vest or harness according to the manufacturer's instructions; A safety restraint system according to vehicle manufacturer's instruction;
High	(3) Four years of age, weighs more than 40 pounds, and is less than four feet, nine inches in height; or five years through seven years of age, regardless of weight, and is less than four feet, nine inches in height	(A) General purpose vehicle (B) Small school bus (C) Large school bus	A forward-facing child safety seat, booster seat, safety vest or harness according to the manufacturer's instructions; A properly fitting safety belt anywhere the child sits in the vehicle; A safety restraint system according to vehicle manufacturer's instruction;
High	(4) Four years through seven years of age and four feet, nine inches in height or taller	(A) General purpose vehicle (B) Small school bus (C) Large school bus	A booster seat according to the manufacturer's instructions or a properly fitting safety belt anywhere the child sits in the vehicle; A properly fitting safety belt anywhere the child sits in the vehicle; A safety restraint system according to vehicle manufacturer's instruction;
High	(5) Eight years through 14 years of age	(A) General purpose vehicle and small school bus (B) Large school bus	A properly fitting safety belt anywhere the child sits in the vehicle; A safety restraint system according to vehicle manufacturer's instruction.

§744.3809. Must caregivers and/or the driver wear a safety belt?

Subchapter Q, Transportation
September 2010

Medium High (a) The driver must be properly restrained by a safety belt before starting the vehicle and at all times the vehicle is in motion.

Medium High (b) All adult passengers in a vehicle transporting children, other than a large school bus, must be properly restrained by safety belts.

Studies indicate the use of restraint devices while riding in a vehicle reduces the likelihood of a passenger's suffering serious injury or death if the vehicle is involved in a crash.

§744.3811. May parents provide the safety seat equipment required for their child?

Subchapter Q, Transportation
September 2010

Medium High Parents may provide the safety seat system for use in transporting their child, provided the equipment is appropriate and can be properly secured in the vehicle. You must use the equipment according to manufacturer's instructions.

Safety restraints are effective in reducing death and injury when they are used properly. According to the AAP, the best child safety seat is one that fits in the vehicle being used, fits the child being transported, has never been in a crash, and is used correctly every time.

§744.3813. May I place more than one person in each safety belt?

Subchapter Q, Transportation
September 2010

Medium High No; only one person may use each safety belt.

§744.3815. May a child ride in a safety belt with a shoulder harness?

Subchapter Q, Transportation
September 2010

High A child may ride in a safety belt with a shoulder harness if the shoulder harness goes across the child's chest and not across the child's face or neck. The lap belt should fit low across the child's thighs or top of the legs and not across the child's stomach area. Never put a shoulder belt under the child's arm or behind the child's back. If the lap belt and shoulder harness do not fit properly, a booster seat must be used.

§744.3817. Must I carry specific equipment in vehicles used to transport children in my care?

Subchapter Q, Transportation
September 2010

No Weight (a) You must have the following in each vehicle you use to transport children:

High (1) A list of the children being transported;

High (2) Emergency medical transport and treatment authorization forms for each child being transported;

Medium High (3) The operation's name, director or permit holder's name, and operation telephone number in the glove compartment or clearly visible inside the passenger compartment, or the operation's name and telephone number must be clearly visible on the outside of the vehicle;

High (4) Parent's names and telephone numbers and emergency telephone numbers for each child being transported;

High (5) A fire extinguisher approved by the local or state fire marshal, secured in the passenger compartment and accessible to the adult occupants; and

High (6) A first-aid kit as specified in §744.2753 of this title (relating to What items must each first-aid kit contain?).

High (b) The driver must have a current driver's license.

- *Caregivers can respond promptly in emergency situations when they have the proper equipment and necessary telephone numbers in the vehicle.*
- *The contents of first aid kits deteriorate quickly when exposed to long-term high temperatures common in vehicles and we recommend they be checked and updated often.*

§744.3819. What plan must I have for transportation emergencies?

Subchapter Q, Transportation
September 2010

Medium High You must ensure the driver/caregivers have clear instructions in handling emergency breakdowns and accidents, including vehicle evacuation procedures, supervision of the children, and contacting emergency help. The director or designee in charge of the operation must know what action to take in responding to a transportation emergency call.

§744.3821. What communications device must I have in a vehicle used for transporting children?

Subchapter Q, Transportation
September 2010

You must have one of the following:

Medium High (1) A communications device such as a cellular phone, message pager, or two-way radio; or

Medium High (2) A caregiver at the operation that knows the routine arrival and departure times of the vehicle and takes action if the vehicle does not return to the operation at a scheduled time. The driver must travel a known fixed route within an approximate timeframe.

Appendix I: Definitions

Texas Administrative Code, Title 40 Social Services and Assistance
Part 19, Texas Department of Family and Protective Services
Chapter 745, Licensing
Subchapter A. Precedence and Definitions
Division 3. Definitions for Licensing

§745.21. What words must I know to understand this subchapter?

The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise:

(1) Abuse – As defined in the Texas Family Code, §261.401(1) (relating to Agency Investigation) and §745.8557 of this title (relating to What is abuse?).

(2) Affinity – Related by marriage as set forth in the Government Code, §573.024 (relating to Determination of Affinity).

(3) Capacity – The maximum number of children that a permit holder may care for at one time.

(4) Caregiver – A person whose duties include the supervision, guidance, and protection of a child or children.

(5) Child – A person under 18 years old.

(6) Child-care facility – An establishment subject to regulation by Licensing which provides assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the establishment operates for profit or charges for its services. A child-care facility includes the people, administration, governing body, activities on or off the premises, operations, buildings, grounds, equipment, furnishings, and materials. A child-care facility does not include child-placing agencies, listed family homes, or employer-based child care.

(7) Child day care – As defined in §745.33 of this title (relating to What is child day care?).

(8) Child-placing agency (CPA) – A person, including an organization, other than the parents of a child who plans for the placement of or places a child in a child-care operation or adoptive home.

(9) Children related to the caregiver – Children who are the children, grandchildren, siblings, great-grandchildren, first cousins, nieces, or nephews of the caregiver, whether by affinity or consanguinity or as the result of a relationship created by court decree.

(10) Consanguinity – Two individuals are related to each other by consanguinity if one is a descendant of the other; or they share a common ancestor. An adopted child is considered to be related by consanguinity for this purpose. Consanguinity is defined in the Government Code, §573.022 (relating to Determination of Consanguinity).

(continued)

(11) Contiguous operations – Two or more operations that touch at a point on a common border or located in the same building.

(12) Controlling person – As defined in §745.901 of this title (relating to Who is a controlling person at a child-care operation?).

(13) Deficiency – Any failure to comply with a standard, rule, law, specific term of your permit, or condition of your evaluation, probation, or suspension.

(14) Designated perpetrator – As defined in §745.731 of this title (relating to What are designated perpetrators and sustained perpetrators of child abuse or neglect?).

(15) Division – The Licensing Division within the Texas Department of Family and Protective Services (DFPS).

(16) Employee – Any person employed by or that contracts with the permit holder, including but not limited to caregivers, drivers, kitchen personnel, maintenance and administrative personnel, and the director.

(17) Endanger – To expose a child to a situation where physical or mental injury to a child is likely to occur.

(18) Exploitation – As defined in the Texas Family Code, §261.401(2) (relating to Agency Investigation).

(19) Finding – The conclusion of an investigation or inspection indicating compliance or deficiency with one or more minimum standards or laws.

(20) Governing body – The entity with ultimate authority and responsibility for the operation.

(21) Governing body designee – The person named on the application as the designated representative of a governing body who is officially authorized by the governing body to speak for and act on its behalf in a specified capacity.

(22) Household member – An individual, other than the caregiver(s), who resides in an operation.

(23) Kindergarten age – As defined in §745.101(1) of this title (relating to What words must I know to understand this subchapter?).

(24) Licensed administrator – As defined in §745.8905 of this title (relating to What is a licensed administrator?).

(25) Military service member – A person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(26) Military spouse – A person married to a military service member who is currently on active duty.

(27) Military veteran – A person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.

(28) Minimum standards – The rules contained in Chapters 743 of this title (relating to Minimum Standards for Shelter Care, 744 of this title (relating to Minimum Standards for School-Age and Before or After-School Programs), 746 of this title (relating to Minimum Standards for Child-Care Centers), 747 of this title (relating to Minimum Standards for Child-Care Homes), 748 of this title (relating to General Residential Operations), 749 of this title (relating to Child-Placing Agencies), 750 of this title (relating to Independent Foster Homes), and Division 11 (relating to Employer-Based Child Care) of Subchapter D of this chapter (relating to Application Process), which are minimum requirements for permit holders that are enforced by DFPS to protect the health, safety and well-being of children.

(29) Neglect – As defined in the Texas Family Code, §261.401(3) (relating to Agency Investigation) and §745.8559 of this title (relating to What is neglect?).

(30) Operation – A person or entity offering a program that may be subject to Licensing's regulation. An operation includes the building and grounds where the program is offered, any person involved in providing the program, and any equipment used in providing the program. An operation includes a child-care facility, child-placing agency, listed family home, or employer-based child care.

(31) Parent – A person that has legal responsibility for or legal custody of a child, including the managing conservator or legal guardian.

(32) Permit – A license, certification, registration, listing, compliance certificate, or any other written authorization granted by Licensing to operate a child-care facility, child-placing agency, listed family home, or employer-based child care. This also includes an administrator's license.

(33) Permit holder – The person or entity granted the permit.

(34) Pre-kindergarten age – As defined in §745.101(2) of this title (relating to What words must I know to understand this subchapter?).

(35) Program – Activities and services provided by an operation.

(36) Regulation – The enforcement of statutes and the development and enforcement of rules, including minimum standards. Regulation includes the licensing, certifying (both state run and employer-based operations), registering, and listing of an operation or the licensing of an administrator.

(37) Report – An expression of dissatisfaction or concern about an operation, made known to DFPS staff, that alleges a possible violation of minimum standards or the law and involves risk to a child/children in care.

(38) Residential child care – As defined in §745.35 of this title (relating to What is residential child care?).

(39) State Office of Administrative Hearings (SOAH) – See §745.8831 and §745.8833 of this title (relating to What is a due process hearing? and What is the purpose of a due process hearing?).

(40) Sustained perpetrator – See §745.731 of this title (relating to What are designated perpetrators and sustained perpetrators of child abuse or neglect?).

Appendix II: (Background Check Rules Moved)

Appendix II: Background Check Rules has been removed from this publication. These rules are now posted on the DFPS website as a separate publication:

DFPS Licensing Background Check Rules
Texas Administrative Code, Title 40.Social Services and Assistance
Part 19, Texas Department of Family and Protective Services
Chapter 745, Licensing
Subchapter F, Background Checks

Appendix III: Definitions of Abuse, Neglect, Exploitation

Texas Family Code
Title 5, The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship
Subtitle E, Protection of the Child
Chapter 261, Investigation of Report of Child Abuse or Neglect
Subchapter E, Investigations of Abuse, Neglect, or Exploitation in Certain Facilities

Sec. 261.401. AGENCY INVESTIGATION.

(a) Notwithstanding Section 261.001, in this section:

(1) "Abuse" means an intentional, knowing, or reckless act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program that causes or may cause emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.

(2) "Exploitation" means the illegal or improper use of a child or of the resources of a child for monetary or personal benefit, profit, or gain by an employee, volunteer, or other individual working under the auspices of a facility or program as further described by rule or policy.

(3) "Neglect" means a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.

(b) Except as provided by Section 261.404, a state agency that operates, licenses, certifies, registers, or lists a facility in which children are located or provides oversight of a program that serves children shall make a prompt, thorough investigation of a report that a child has been or may be abused, neglected, or exploited in the facility or program. The primary purpose of the investigation shall be the protection of the child.

(c) A state agency shall adopt rules relating to the investigation and resolution of reports received as provided by this subchapter. The Health and Human Services Commission shall review and approve the rules of agencies other than the Texas Department of Criminal Justice, Texas Youth Commission, or Texas Juvenile Probation Commission to ensure that those agencies implement appropriate standards for the conduct of investigations and that uniformity exists among agencies in the investigation and resolution of reports.

(d) The Texas School for the Blind and Visually Impaired and the Texas School for the Deaf shall adopt policies relating to the investigation and resolution of reports received as provided by this subchapter. The Health and Human Services Commission shall review and approve the policies to ensure that the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf adopt those policies in a manner consistent with the minimum standards adopted by the Health and Human Services Commission under Section 261.407.

Appendix IV, Vaccine-Preventable Diseases

This guide is intended to provide you with more information to assist in the development and implementation of a vaccine-preventable disease policy for your program.

What must the policy for protecting children from vaccine-preventable diseases include?

Your operation is responsible for developing a policy that includes all areas addressed in §744.2581.

How will Licensing evaluate for compliance?

Licensing will review your program's policy to ensure that it covers each of the eight required areas. Licensing staff will ensure that your operation outlines how you will maintain either written or electronic records for each employee's compliance with your policy as well as any exemptions. We will not evaluate based on the content of each policy item.

What would be an example of how licensing will evaluate my operation's compliance with the new rule?

The new rule requires you to specify any vaccines that you have determined an employee must have based on the level of risk the employee presents. Licensing staff will review your policy to ensure you have specified any vaccines an employee must have. For example, if your policy outlines that all employees must only obtain a flu vaccine once every 12 months then we would only review compliance with the employee's requirement to obtain a flu vaccine.

What immunizations are recommended for adults?

The Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention (CDC) develops the recommendations and they are listed on the CDC website at http://www.cdc.gov/vaccines/schedules/downloads/adult/adult-schedule.pdf

Do I have to require employees to obtain all immunizations recommended by the CDC?

No, employees at your program will only need to obtain immunizations that are required in your policy. It is up to you to determine what immunizations will be required and which employees are required to obtain them based on their level of risk as determined by their routine and direct exposure with children.

How do I determine an employee's level of risk?

An employee's level of risk is determined by the policy you develop. The basis for determining an employee's level of risk must be outlined in your policy and must be based on the employee's routine and direct exposure to children. Items to consider when you develop policy include:

- What are the employee's primary duties?
- How closely does the employee work with children? (For example, does the employee change diapers, assist with toileting, prepare or serve food)
- How often does the employee work with children? (Regular contact vs. substitute basis)
- What are the ages of children the employee works with?

Can an employee be exempt from immunizations that my program's policy requires?

Yes, an employee may be exempt from one or more of your program's required immunizations for:

- Medical conditions identified as contraindications or precautions by the CDC; or
- Reasons of conscience, including a religious belief.

What procedures must an employee follow to be exempt from having a required vaccine?

Your policy must address exemption procedures an employee must follow in order for you to determine the employee's qualification of an exemption.

What are some examples of acceptable documentation for exemptions?

- For medical conditions, acceptable documentation may include a note from the employee's health care professional providing a statement that the required vaccine is medically contraindicated or poses a significant risk to the health and well-being of the individual.
- For reasons of conscience, acceptable documentation may include a signed and dated statement from the employee that states the employee is exempt for reasons of conscience, including the person's religious beliefs.

What are some examples of procedures that an exempt employee must follow to protect children in care from exposure to disease?

It is up to your operation to determine what and when protective procedures will be required.

Examples of protective procedures include:

- Wearing gloves when handling or cleaning body fluids, such as after wiping noses, mouths, or bottoms, and tending sores;
- Specifying that an employee with open wounds and/or any injury that inhibits hand washing, such as casts, bandages, or braces, must not prepare food or have close contact with children in care;
- Wearing masks when the employee has respiratory symptoms to reduce the spread of droplets to surrounding areas;
- Wearing masks when taking care of children with respiratory symptoms;
- Removing gloves and washing hands immediately after each task to prevent cross-contamination to other children;
- Excluding the employee from direct care when the employee has signs of illness.

How can I determine that an employee has complied with my operation's policy?

You must specify in your policy how you will verify that an employee has complied with your policy. This must include what written and/or electronic documentation you will accept. Examples of documentation may include:

- Copy of the employee's current immunization record;
- Receipt that includes date a required immunization was received;
- Letter signed by a health care professional that lists the date an immunization was received;
- Documentation of exemption for medical reasons from a health care professional;
- Signed and dated statement from the employee for exemption based on a reason of conscience.

Where can my employees get the recommended immunizations?

Individuals should start with their health care provider. Other resources in your area include pharmacies, the health department, and public or community health clinics. For a list of local health departments in Texas visit the Texas Department of State Health Services (DSHS) website at: http://www.dshs.state.tx.us/regions/lhds.shtm

Are there any other resources available for employees to receive the recommended immunizations?

Yes, the Adult Safety Net program created by The Texas Department of State Health Services (DSHS) to increase access to vaccination services in Texas for uninsured adults.

What is the Adult Safety Net program?

The Adult Safety Net (ASN) program provides vaccine purchased with public funds to participating clinics to be used for immunizing uninsured adults.

How do I find an Adult Safety Net provider in my area?

Visit the ASN website at www.dshs.state.tx.us/ASN and click on the search page to locate an ASN clinic near you. (Please check with the clinic before visiting to make sure they can see you.)

Who is eligible to receive vaccinations from the ASN program?

Adults ages 19 years and older that do not have health insurance are eligible to receive ASN vaccines.

Who is not eligible to receive ASN vaccines?

Individuals who do not qualify for ASN vaccines include:

- Adults who have Medicare, Medicaid, or any other insurance, including private insurance.
- Adults who are underinsured for adult vaccines (e.g., those who have healthcare insurance that does not cover adult vaccines).
- Individuals younger than 19 years of age.

What vaccines are offered through the ASN program?

The following is a list of vaccines currently offered through the ASN program and a description of the diseases they prevent.

- Hepatitis B Vaccine — prevents infection of the liver by the hepatitis B virus, which can lead to liver cancer, cirrhosis of the liver, liver failure, and death.
- Hepatitis A Vaccine — prevents infection of the liver by the hepatitis A virus. Symptoms of hepatitis A include lack of energy, diarrhea, fever, nausea and jaundice (yellow color to the whites of the eyes or skin).
- Hepatitis A and Hepatitis B Combination Vaccine—see above.
- Human Papillomavirus (HPV) Vaccine — prevents infection from several strains of HPV, including those that cause genital warts and several types of cancer, such as cervical, anal, penile, and throat cancer.
- Measles/Mumps/Rubella (MMR) Vaccine — prevents infection from the measles virus, which can lead to rash, ear infection, brain damage, and death. Prevents infection from the mumps virus, which can cause fever, swollen glands, headache, and can lead to deafness and meningitis. Prevents infection from rubella virus, which can cause rash, arthritis, and miscarriage in pregnant women.

(continued)

- Pneumococcal Polysaccharide (PPSV23) Vaccine — prevents infection by the Streptococcus pneumoniae bacterium, which is one of the most common causes of severe pneumonia and can lead to other types of infections, such as ear infections, sinus infections, meningitis (infection of the lining of the brain and spinal cord), and blood stream infections (bacteremia).
- Tetanus, Diphtheria, and Pertussis (Tdap) Vaccine — prevents tetanus, which can cause muscle spasms, lockjaw, paralysis, and death. Prevents diphtheria, which can cause suffocation and heart failure. Prevents pertussis (known as "whooping cough"), which can cause severe coughing that can lead to rib fractures, pneumonia, and death. The CDC recommends* one dose for all pregnant women during every pregnancy and all other adults who have not yet received Tdap vaccination, especially those who come in contact with infants.
- Tetanus and Diphtheria (Td) Vaccine — similar to Tdap vaccine (see above), but protects against tetanus and diphtheria only, without the pertussis component.

If I qualify for ASN vaccine, do I have to pay anything?

ASN vaccines are supplied to participating medical providers at no cost. This means that ASN providers cannot charge a fee for the vaccine itself. However, providers are allowed to charge an administration fee of up to $25 for each vaccine that is administered. Although ASN providers may charge this administration fee, they cannot deny the vaccine because of an inability to pay it.

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