Minimum Standards

For

Child-Care Centers

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Minimum Standards
For

Child-Care Centers

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 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.

Weights

The minimum standards are 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 in green 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.

See the following resources for further information related to child-care:

Healthy Child Care Texas

Office of Program Coordination for Children and Youth
Texas Health and Human Services Commission
Internet website: http://www.healthychildcaretexas.org/index.htm

Developmentally Appropriate Practice in Early Childhood Programs

National Association for the Education of Young Children (NAEYC)
Internet website: http://www.naeyc.org/

Caring for Our Children, National Health and Safety Performance Standards: Guidelines for Out-of-Home Child Care, Second Edition

American Academy of Pediatrics (AAP), American Public Health Association, and National Resource Center for Health and Safety in Child Care and Early Education (2002).
Internet website: http://nrckids.org/

American Academy of Pediatrics

Internet website: http://www.aap.org/

Handbook for Public Playground Safety

U.S. Consumer Product Safety Commission (CPSC)
Internet website: http://cpsc.gov/

National Program for Playground Safety (NPPS)

School of Health, Physical Education & Leisure (HPELS), WRC 205
University of Northern Iowa
Internet website: http://www.uni.edu/playground

The Creative Curriculum for Early Childhood

Contributing authors Marilyn Goldhammer and Laura J. Colker
Published by Teaching Strategies, Inc.
Internet website: http://www.teachingstrategies.com/

Texas Child Care

Published by the Texas Workforce Commission
Internet website: http://www.childcarequarterly.com/

Minimum Standards for Child-Care Centers

Chapter 746, Title 40, Social Services & Assistance, Part 19, Dept. of Family and Protective Services

Subchapter A, Purpose and Definitions

§746.101. What is the purpose of this chapter?

Subchapter A, Purpose and Definitions
September 2003

(no weight) The purpose of this chapter is to set forth the minimum standards that apply to child-care centers.

§746.103. What do certain pronouns mean as used in this chapter?

Subchapter A, Purpose and Definitions
December 2010

(no weight) The following words have the following meanings when used 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).

§746.105. What do certain words and terms mean when used 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 a child-care center. The date of admission is the first day the child is physically present in the center.

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

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

(6) **Alternate care program** – A program in which no child is in care for more than five consecutive days, and no child is in care for more than 15 days in one calendar month, regardless of the duration of each stay.

(continued)

(7) **Attendance** – When referring to a child's attendance, the physical presence of a child at the child-care center's program on any given day or at any given time, as distinct from the child's enrollment in the child-care center.

(8) **Baby bungee jumper** – A baby bungee jumper allows an infant to bounce while supported in a seat by elastic "bungee cord" suspended from a doorway.

(9) **Baby walker** – A baby walker allows an infant to sit inside the walker equipped with rollers or wheels and move across the floor.

(10) **Bouncer seat** – A stationary seat designed to provide gentle rocking or bouncing motion by an infant's movement, or by battery-operated movement. This type of equipment is designed for an infant's use from birth until the child can sit up unassisted.

(11) **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).

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

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

(14) **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.

(15) **Child-care center** – A child-care facility that is licensed to care for seven or more children for less than 24 hours per day, at a location other than the permit holder's home, except as otherwise provided in §746.107 of this title (relating to What types of operations do these minimum standards apply to?).

(16) **Child-care location** – The street address of the child-care center and the lot or lots on which the building or buildings are located.

(17) **Child-care program** – The services and activities provided by a child-care center.

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

(19) **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.

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

(continued)

(21) **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.

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

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

(24) **Days** – Calendar days, unless otherwise stated.

(25) **Enrollment** – The list of names or number of children who have been admitted to attend a child-care center for any given period of time; the number of children enrolled in a child-care center may vary from the number of children in attendance on any given day.

(26) **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.

(27) **Field trips** – Activities conducted away from the child-care center.

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

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

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

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

(32) **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.

(33) **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.

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

(35) **Infant** – A child from birth through 17 months.

(36) **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, kept inflated by continuous air flow by one or more blowers, and rely upon air pressure to maintain their shape.

(continued)

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

(38) **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 toddler with a disability would be a play group or child-care center or whatever setting exists for toddlers without disabilities.

(39) **Pre-service training** – Training given to a person who has no previous experience in professional child care and no relevant training in specified topics.

(40) **Propped bottle** – A bottle supported by something other than the child or adult's hand because the child is too young to hold it.

(41) **Regularly** – On a recurring, scheduled basis.

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

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

(44) **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.

(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.

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

(48) **Toddler** – A child from 18 months through 35 months.

(49) **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.

(50) **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.

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

Subchapter A, Purpose and Definitions
September 2003

(no weight) (a) The minimum standards in this chapter apply to the following types of child-care facilities:

(1) All child-care centers licensed on or after September 1, 2003, to care for seven or more children for less than 24 hours per day at a location other than the permit holder's home; and

(2) All child-care facilities licensed before September 1, 2003, as a day-care center, kindergarten and nursery school, school: grades kindergarten and above, or drop-in care center, regardless of whether the facility operates in the permit holder's home.

(no weight) (b) A group day-care home licensed before September 1, 2003, will have a one-time opportunity to elect to be treated either as a child-care center, subject to the minimum standards in this chapter, or as a child-care home, subject to the minimum standards in Chapter 747 of this title (relating to Minimum Standards for Child-Care Homes).

(no weight) (c) To be considered as operating in one's own home, the location where care is being provided must be at the same address as the permit holder's residence.

(no weight) (d) On or after September 1, 2003, no child-care center will be issued a new license to care for 13 or more children for less than 24 hours per day in the permit holder's home.

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

Subchapter A, Purpose and Definitions
September 2003

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 child-care center does not offer. For example, if we license you to offer only toddler and pre-kindergarten care programs, you do not have to comply with minimum standards that apply only to infant care, school-age care, get-well care, or nighttime-care programs; however, you must comply with all other minimum standards.

Subchapter B, Administration and Communication

Division 1, Permit Holder Responsibilities

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

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

You are responsible for the following:

High (1) Developing and implementing your child-care center's 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;

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

Medium-High (4) Designating a child-care center director who meets minimum standard qualifications and has daily, on-site responsibility for the operation of the child-care center;

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;

Medium (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 child-care center any time during the child-care center's hours of operation to observe their child, program activities, the building, the 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

(continued)

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

- *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

§746.301. What changes regarding my child-care center must I notify Licensing about before making the change?

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

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

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

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

High (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 center, 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.

§746.303. Must I notify Licensing of changes I make regarding the governing body or director of my child-care center?

Subchapter B, Administration and Communication
Division 2, Required Notifications
September 2003

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

Medium (1) Sale or transfer of the child-care center 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) The center 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 child-care center.*
- *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 a center is not at risk.*

§746.305. 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 center unsafe or unsanitary for a child;

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 Texas Department of State Health Services (DSHS) as specified in 25 TAC 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 a center vehicle or on the playground or not preventing a child from wandering away from the child-care center 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 a child-care center unsafe or unhealthy include sewer backups, flood, fire or storm damage, or the lack of running water.

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

Subchapter B, Administration and Communication
Division 2, Required Notifications
December 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 child-care center as specified in Subchapter R 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 a center vehicle or not preventing a child from wandering away from the child-care center unsupervised; or

Medium-High (4) Has been involved in any situation that renders the child-care center unsafe, such as a fire, flood, or damage to the child-care center 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 child-care center. Less serious injuries include, but are not limited to, minor cuts, scratches, and bites from other children requiring first-aid treatment by employees.

Medium (c) You must notify all parents of children in the child-care center 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 Texas Department of State Health Services as specified in 25 TAC 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 center and to the parent's ability to assess the care their children are receiving.

Division 3, Required Postings

§746.401. What items must I post at my child-care center at all times?

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

You must post the following items:

Medium (1) The child-care center's 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 §746.5207 of this title (relating to Must I have an emergency evacuation and relocation diagram?);

Medium (5) The activity plan for each group of children in the child-care center;

Medium (6) The daily menu, including all snacks and meals served by the child-care center;

Medium-Low (7) The Licensing *Parent Notification Poster*;

Medium-Low (8) Telephone numbers specified in §746.405 of this title (relating to What telephone numbers must I post and where must I post them?);

Medium-Low (9) A list entitled "Current Employees." The list must be at least 8-1/2 inches by 11 inches in size, printed legibly, and must include each employee's first and last name;

Medium-High (10) A list of each child's food allergies that require an emergency plan, as specified in §746.3819 of this title (relating to When must I have a food allergy emergency plan for a child?); and

Medium (11) 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.

§746.403. 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 §746.401 of this title (relating to What items must I post at my child-care center at all times?) must be posted at all times, in a prominent and publicly accessible place where employees, parents, and others may easily view them.

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 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.

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

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

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

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

Medium (A) Emergency medical services;

Medium (B) Law enforcement; and

Medium (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 child-care center name, address, and telephone number.

Medium (b) You must post the telephone numbers next to each telephone in the child-care center. If the child-care center 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 child-care center, or on the phone handset.

Readily available phone numbers help to ensure prompt response/action in an emergency.

Division 4, Operational Policies

§746.501. What written operational policies must I have?

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

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 medications, 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) Hearing and vision screening requirements;

Medium (12) Enrollment procedures, including how and when parents will be notified of policy changes;

Medium (13) Transportation, if applicable;

Medium (14) Water activities, if applicable;

Medium (15) Field trips, if applicable;

Medium (16) Animals, if applicable;

Medium (17) The procedures for parents to review and discuss with the child-care center director any questions or concerns about the policies and procedures of the child-care center;

Medium-Low (18) The procedures for parents to visit the child-care center at any time during the child-care center's hours of operation to observe their child, the child-care center's operation, and program activities, without having to secure prior approval;

Medium-Low (19) The procedures for parents to participate in the child-care center's operation and activities;

Medium (20) The procedures for parents to review a copy of the minimum standards and the child-care center's most recent Licensing inspection report;

Medium (21) Instructions on how a parent may contact the local Licensing office, DFPS child abuse hotline, and DFPS website;

(continued)

Low (22) Your method of informing the parents that under the Texas Penal Code, any area within 1000 feet of a child-care center is a gang-free zone, where criminal offenses related to organized criminal activity are subject to harsher penalty. Your method may include:

(A) providing this information in the parent's handbook;

(B) distributing the information in writing to the required recipients; or

(C) informing parents verbally as part of the individual or group parent orientation;

High (23) Your emergency preparedness plan;

Low (24) Your provisions to provide a comfortable place with a seat in your center or within a classroom that enables a mother to breastfeed her child. In addition, your policies must inform parents that they have the right to breastfeed or provide breast milk for their child while in care;

Medium (25) Preventing and responding to abuse and neglect of children, including:

(A) Required annual training for employees;

(B) Methods for increasing employee and parent awareness of issues regarding child abuse and neglect, including warning signs that a child may be a victim of abuse or neglect;

(C) Methods for increasing employee and parent awareness of prevention techniques for child abuse and neglect;

(D) Strategies for coordination between the center and appropriate community organizations; and

(E) Actions that the parent of a child who is a victim of abuse or neglect should take to obtain assistance and intervention;

Medium (26) Procedures for conducting health checks, if applicable; and

Medium (27) Vaccine-preventable diseases for employees, unless your center is in the home of the permit holder. The policy must address the requirements outlined in §746.3611 of this title (relating to What must a policy for protecting children from vaccine-preventable diseases include?).

Human milk is the best source of milk for infants. Additionally, breastfeeding supports optimal health and development.

Providing a mother with a place to sit and breastfeed her child helps to support this practice. Use of an adult-size chair in the classroom meets the intent of this requirement. Other things your operation may do to provide additional support include providing:

- *a pillow to support her infant in her lap*
- *a stepstool for her to prop her feet and prevent back strain,*
- *water or other liquid to help her stay hydrated.*

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

Subchapter B, Administration and Communication
Division 4, Operational Policies
September 2003

Medium

Yes. Parents must sign a child-care 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 center'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.*

§746.505. 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 2003

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.

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

Subchapter B, Administration and Communication
Division 4, Operational Policies
September 2003

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

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

Subchapter C, Record Keeping
Division 1, Records of Children
September 2003

Medium (a) All children's records must be immediately accessible to caregivers during 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 child-care center director.

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

> *During the time children are being cared for, events may occur that require access to information about a child in order to protect the child and/or others in care.*

§746.603. 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 child-care center:

Medium (1) Child-care enrollment agreement specified in §746.503 of this title (relating to Must I provide parents with a copy of my operational policies?);

Medium (2) Admission information;

Medium (3) Statement of the child's health from a health-care professional;

Medium (4) Immunization records;

Low (5) Tuberculin testing information, if applicable;

Low (6) Hearing and vision screening results, if applicable;

Medium (7) Licensing *Incident/Illness Report* form;

Medium-High (8) Sign-in and sign-out logs;

Medium (9) Medication administration records; and

Medium (10) A copy of any health-care professional recommendations or orders for providing specialized medical assistance to the child.

(continued)

Low (b) These records must at a minimum be kept at the child-care center and must be available during hours of operation and 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.

§746.605. 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 care:

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 child-care center;

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

Medium-High (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;

Medium (8) Permission for transportation, if provided;

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

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

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

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 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;

(continued)

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.*

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

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

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

§746.609. Must I update the admission information?

Subchapter C, Record Keeping
Division 1, Records of Children
September 2003

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 center 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 center.*
- *It also ensures that accurate information is available during an emergency so that the child's needs can be met.*

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

Subchapter C, Record Keeping
Division 1, Records of Children
March 2008

(a) A health statement is:

Low (1) A written statement, from a health-care professional who has examined the child within the past year, indicating the child is able to take part in the child-care program;

Medium (2) A signed affidavit from the parent stating that medical diagnosis and treatment conflict with the tenets and practices of a recognized religious organization of which the parent is an adherent or a member; or

Medium (3) A signed statement from the parent giving the name and address of a health-care professional who has examined the child within the past year stating that the child is able to participate in the program. This must be followed by a signed statement from a health-care professional as specified in paragraph (1) of this subsection within 12 months of the date of admission.

Medium (b) You must have a health statement on file at the center, within one week after the date of admission, for each child who does not attend pre-kindergarten or school away from the child-care center.

Health status information is critical to ensuring that the individual needs of children are met, while protecting the health and safety of all children in care.

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

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

High (a) Each child enrolled or admitted to child-care centers must meet applicable immunization requirements specified by the Texas Department of State Health Services in 25 TAC 97, Subchapter B (relating to Immunization Requirements in Texas Elementary and Secondary Schools and Institutions of Higher Education). This requirement applies to all children in care from birth through 14 years of age.

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

According to the American Academy of Pediatrics (AAP), children require frequent boosters and immunizations in early childhood.

- *Although they may be current with required immunizations when they enroll, they can miss future required immunizations.*
- *Since the risk of vaccine preventable disease is increased in group settings, ensuring appropriate immunization is an essential responsibility in child care.*

§746.615. Are there exemptions for immunization requirements?

Subchapter C, Record Keeping
Division 1, Records of Children
July 2005

Medium

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

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

Subchapter C, Record Keeping
Division 1, Records of Children
July 2005

(no weight)

You can find more information in the Texas 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 Texas Department of State Health Services Internet website at: http://www.dshs.state.tx.us/immunize, or you may obtain a copy from Licensing or your local or state health department.

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

Subchapter C, Record Keeping
Division 1, Records of Children
July 2005

Medium-High

(a) Except as otherwise provided in this division, you must have a copy of the child's completed immunization record by the date of admission.

Low

(b) If you provide only an alternate-care program, you must have the immunization record for each child who has attended your child-care center two or more times within a 30-day period.

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

Subchapter C, Record Keeping
Division 1, Records of Children
July 2005

Low

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

§746.623. What documentation is acceptable for immunization records?

Subchapter C, Record Keeping
Division 1, Records of Children
July 2005

Medium-High (a) Documentation on file at the child-care center may be the original immunization record or a photocopy of the record. 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, is also acceptable.

Medium-High (b) The immunization record must include:

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

(2) The number of doses and vaccine type;

(3) The month, day, and year the child received each vaccination; and

(4) The signature or stamp of the physician or other health care professional who administered the vaccine.

§746.625. If a child's immunization record is already on file at a pre-kindergarten program or school away from the child-care center, must I also have a copy of the child's immunization record in my files?

Subchapter C, Record Keeping
Division 1, Records of Children
September 2003

Low For each child attending a pre-kindergarten program or school away from the child-care center, you must have either:

(1) A copy of the current immunization record that is on file at the pre-kindergarten program or school the child attends; or

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

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

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

Medium-Low Requirements for tuberculosis screening and testing vary across the state. If your regional Texas Department of State Health Services (DSHS) or local health authority requires tuberculosis testing for children in your child-care center, 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.

§746.629. Must children in my care have vision and hearing screening?

Subchapter C, Record Keeping
Division 1, Records of Children
July 2005

(no weight) (a) The Special Senses and Communication Disorders Act, Texas Health and Safety Code, Chapter 36, requires a screening or a professional examination for possible vision and hearing problems for children of certain ages and grades. Refer to 25 TAC Chapter 37, Subchapter C, (relating to Vision and Hearing Screening), for specifics on vision and hearing screening. This information may be accessed on the Internet at: www.dshs.state.tx.us/vhs/.

Low (b) You must keep one of the following at the child-care center for each child required to be screened:

(1) The individual visual acuity and sweep check results; or

(2) A signed statement from the child's parent that the child's screening records are current and on file at the pre-kindergarten program or school the child attends away from the center. The statement must be dated and include the name, address, and telephone number of the pre-kindergarten program or school.

(3) An affidavit stating that the vision or hearing screening conflicts with the tenets or practices of a church or religious denomination of which the affiant is an adherent or member.

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

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

Medium-High (a) Yes. You must have a system for tracking for each child coming and going from your child-care center 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 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

§746.701. Must I keep a written record of accidents and incidents that occur at my child-care center?

Subchapter C, Record Keeping
Division 2, Records of Accidents and Incidents
September 2003

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 that required medical attention by a health-care professional; and

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

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

..Subchapter C, Record Keeping
Division 2, Records of Accidents and Incidents
December 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.asp.

§746.705. Must someone from my child-care center sign the *Incident/Illness Report* form?

Subchapter C, Record Keeping
Division 2, Records of Accidents and Incidents
September 2003

Low Yes. The director of the child-care center or the person in charge must sign and date the completed report.

§746.707. 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 2003

Medium 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.

§746.709. 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 2003

Low — You must keep the *Incident/Illness Report* form with the child's record at the child-care center 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 Child-Care Center

§746.801. What records must I keep at my child-care center?

Subchapter C, Record Keeping
Division 3, Records That Must be kept on File at the Child-Care Center
March 2014

You must maintain and make the following records available for our review upon request, during hours of operation. Paragraphs (18), (19), and (20) are optional, but if provided, allows 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) Infant feeding instructions, if applicable;

Medium — (3) Personnel and training records, unless on file at a central administrative location;

Medium — (4) Licensing *Child-Care Center Director's Certificate*;

Medium — (5) Attendance records for employees;

Medium — (6) Children's program activity plans for each age group;

Medium — (7) Verification of liability insurance or notice of unavailability, if applicable;

High — (8) Proof of request for all DFPS background checks required by Subchapter F of Chapter 745 of this title (relating to Background Checks);

Medium — (9) Daily menus;

Medium-High — (10) Medication records;

Medium — (11) Playground maintenance checklists;

Medium — (12) Pet vaccination records, if applicable;

Medium — (13) Fire safety documentation for emergency drills, fire extinguishers, and smoke detectors;

Medium — (14) Most recent Licensing inspection report, letter, or notice requiring posting;

Medium — (15) Most recent fire inspection report;

Medium — (16) Most recent sanitation inspection report;

Medium — (17) Most recent gas inspection report, if applicable;

(continued)

(no weight) (18) Most recent Texas Department of Health immunization compliance review form, if applicable;

(no weight) (19) Most recent Texas Department of Human Services Child and Adult Care Food Program (CACFP) report, if applicable;

(no weight) (20) Most recent local workforce board Child-Care Services Contractor inspection report, if applicable;

Medium (21) Record of pest extermination, if applicable;

Medium-High (22) Written approval from the fire marshal to provide care above or below ground level, if applicable;

Medium (23) Most recent DFPS form certifying that you have reviewed each of the bulletins and notices issued by the United States Consumer Product Safety Commission regarding unsafe children's products and that there are no unsafe children's products in use or accessible to children in the child-care center;

Medium (24) System to track when a child's care begins and ends daily;

Medium (25) Documentation for cribs as specified in §746.2409 of this title (relating to What specific safety requirements must my cribs meet?), if applicable; and

Medium (26) Documentation for vehicles specified in §746.5627 of this title (relating to What documentation must I keep at the child-care center for each vehicle used to transport children in care?), if applicable.

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.*

§746.803. How long must I keep these records at my child-care center?

Subchapter C, Record Keeping
Division 3, Records That Must be kept on File at the Child-Care Center
September 2003

Medium-Low (a) You must keep records at the child-care center 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 the current director and caregivers for at least the current and last full training year.

§746.805. 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 Child-Care Center
December 2010

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

Low (1) If you keep a combination of electronic and paper 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

Low (3) Records must be available during operating hours for review by Licensing upon request.

Division 4, Personnel Records

§746.901. 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 child-care center and available for review during 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 Texas 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;

(6) A statement signed and dated by the employee showing he has received a copy of the child-care center's:

Medium (A) Operational policies; and

Medium-Low (B) Personnel policies;

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

Medium (8) A copy of a photo identification;

(continued)

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

Medium (10) A statement signed and dated by the employee verifying the date the employee attended training during orientation that includes an overview of your policy on the prevention, recognition, and reporting of child abuse and neglect outlined in §746.1303 of this title (relating to What must orientation for employees at my child-care center include?).

§746.903. What additional personnel records must I maintain for my child-care center director?

Subchapter C, Record Keeping
Division 4, Personnel Records
September 2003

Medium-Low In addition to the personnel records that must be maintained for all child-care center personnel, you must have the original Licensing *Child-Care Center Director's Certificate* for your child-care center director. If the child-care center 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.

§746.905. Must I maintain attendance records or time sheets on my employees?

Subchapter C, Record Keeping
Division 4, Personnel Records
September 2003

Medium Yes. You must maintain a record of attendance or time sheets listing all days and hours worked for each employee, caregiver, substitute, and volunteer who is regularly or frequently at the child-care center during hours of operation.

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

Subchapter C, Record Keeping
Division 4, Personnel Records
September 2003

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 at the child-care center or in a central administrative location provided they are immediately available for review during hours of operation.

§746.909. May Licensing access my personnel records?

Subchapter C, Record Keeping
Division 4, Personnel Records
September 2003

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, Child-Care Center Director

§746.1001. Who is the child-care center director?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(no weight) The child-care center director is the adult you designate to have the daily, on-site responsibility for the operation of the child-care center, including maintaining compliance with the minimum standards and Licensing laws.

The director of a child-care center plays a crucial role in ensuring the smooth day-to-day operation of the child-care center 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.

§746.1003. What are the director's responsibilities while at the child-care center?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

Your child-care center director must ensure:

High (1) The child-care center's daily operation is administered in compliance with the minimum standards specified in this chapter;

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

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

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;

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

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

§746.1007. May I be the director of my own child-care center?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(no weight) Yes. You may be both the director and permit holder of a child-care center if you meet all of the required qualifications and are able to fulfill the responsibilities of a child-care center director.

§746.1009. May I have more than one director for my child-care center?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

Medium-Low Yes. You may designate more than one director for your child-care center; however, each director must meet the qualifications specified in this division and receive a written job description that includes job responsibilities.

§746.1011. Must my director be at my child-care center during all hours of operation?

Subchapter D, Personnel
Division 1, Child-Care Center Director
December 2010

Medium-High No; however, your director's presence during operating hours must be routine and adequate enough to meet the position's responsibilities as described in §746.1003 of this title (relating to What are the director's responsibilities while at the child-care center?), including the responsibility to ensure the child-care center complies with all minimum standards.

- *The accessibility of the director is fundamental to a well-run child-care center and this includes her presence at the center.*
- *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.*

§746.1013. Must someone else be designated to be in charge of my child-care center in my director's absence?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

Medium-High (a) Yes. Anytime your director is away from the child-care center during hours of operation, you or your director must designate a qualified caregiver or director to be in charge of the child-care center. Designated individuals must:

Medium-High (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 child-care center in compliance with minimum standards.

Medium (b) If the director must be absent for an extended period of time for any reason, you must name someone who meets director qualifications to serve during the director's absence and you must report the name of the temporary director to Licensing.

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

§746.1015. What qualifications must the director of my child-care center licensed for 13 or more children meet?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

Medium-High

(a) Except as otherwise provided in this division, the director of a child-care center licensed for 13 or more children 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, as defined in §746.1021 of this title (relating to What constitutes experience in a licensed child-care center, or in a licensed or registered child-care home?):

Education	Experience
(1) A bachelor's degree with 12 college credit hours in child development and six college credit hours in business management,	and at least one year of experience in a licensed child-care center;
(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 business 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 child-care center;
(3) Sixty college credit hours with nine college credit hours in child development and six college credit hours in business management,	and at least two years of experience in a licensed child-care center;
(4) 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 business management,	and at least two years of experience in a licensed child-care center;
(5) A Child Development Associate credential or Certified Child-Care Professional credential with six college credit hours in business management,	and at least two years of experience in a licensed child-care center;
(6) A day-care administrator's credential issued by a professional organization or 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 child-care center; or
(7) Nine college credit hours in child development and nine college credit hours in business management,	and at least three years of experience in a licensed child-care center.

Low

(b) Options (5) and (6) in subsection (a) of this section require periodic renewal to remain qualified.

Knowledge of good business practices, administration, and child development are essential for managing a child-care center. 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.

§746.1017. What qualifications must the director of my child-care center licensed for 12 or fewer children meet?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

Medium-High

(a) Except as otherwise provided in this division, the director of a child-care center licensed for 12 or fewer children must be at least 21 years old, have a high school diploma or its equivalent, and meet one of the following combinations of education and experience, as defined in §746.1021 of this title (relating to What constitutes experience in a licensed child-care center, or in a licensed or registered child-care home?):

Education	Experience
(1) A bachelor's degree with 12 college credit hours in child development and three college credit hours in business management,	and at least one year of experience in a licensed child-care center or a licensed or registered child-care home;
(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 three college credit hours in business 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 one year of experience in a licensed child-care center or a licensed or registered child-care home;
(3) Sixty college credit hours with six college credit hours in child development and three college credit hours in business management,	and at least one year of experience in a licensed child-care center or a licensed or registered child-care home;
(4) A Child Development Associate credential or Certified Child-Care Professional credential with three college credit hours in business management,	and at least one year of experience in a licensed child-care center or a licensed or registered child-care home;
(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 business management,	and at least two years of experience in a licensed child-care center or a licensed or registered child-care home;
(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 child-care center or licensed or registered child-care home; or
(7) Seventy-two clock hours of training in child development and 30 clock hours in business management,	and at least three years of experience in a licensed child-care center or a licensed or registered child-care home.

Low

(b) Options (4) and (6) in subsection (a) of this section require periodic renewal.

§746.1019. Are any directors exempt from the qualifications?

Subchapter D, Personnel
Division 1, Child-Care Center Director
December 2010

(no weight) (a) A current director who was director of a DFPS licensed group day-care home before May 1, 1985, is exempt from the requirements specified in §746.1017 of this title (relating to What qualifications must the director of my child-care center licensed for 12 or fewer children meet?).

(no weight) (b) A current director who was director before September 1, 2003, of a DFPS licensed school: grades kindergarten and above, kindergarten and nursery school, or drop-in care center is exempt from the requirements specified in §746.1015 of this title (relating to What qualifications must the director of my child-care center licensed for 13 or more children meet?).

(no weight) (c) If a current director under exemption changes jobs after December 1, 2010, this person must meet director qualifications specified in this subchapter before being designated a child-care center director in a new position.

Moving to a new position requires the director have the experience, skills, and knowledge needed to manage an unfamiliar child-care program.

§746.1021. What constitutes experience in a licensed child-care center, or in a licensed or registered child-care home?

Subchapter D, Personnel
Division 1, Child-Care Center Director
December 2010

(no weight) (a) Only the following types of experience may be counted as experience in a licensed child-care center:

(1) Experience as a director, assistant director, or as a caregiver working directly with children, obtained in any DFPS licensed child-care center, whether paid or unpaid;

(2) Experience as a director, assistant director, or caregiver working directly with children, whether paid or unpaid, in a DFPS licensed day-care center, group day-care home, kindergarten or nursery school, schools: grades kindergarten and above, drop-in care center, or in a DFPS alternatively accredited program; and

(3) Experience as a director, assistant director, or caregiver working directly with children in a licensed or certified child-care center in another state or country.

(continued)

(no weight) (b) Only the following types of experience may be counted as experience in a licensed or registered child-care home:

(1) Experience as a primary caregiver or assistant caregiver working directly with children, whether paid or unpaid, in a DFPS licensed or registered child-care home;

(2) Experience as a director, assistant director, or caregiver working directly with children, whether paid or unpaid in a DFPS licensed group day-care home; or

(3) Experience as a primary caregiver of a DFPS registered family home.

Low (c) 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 at least 30 hours per week.

§746.1023. May other types of experience be substituted for the required experience in a licensed child-care center, or in a licensed or registered child-care home?

Subchapter D, Personnel
Division 1, Child-Care Center Director
December 2010

(no weight) The following types of experience may be substituted for one year of the required experience:

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

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

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

§746.1025. Can Licensing verify whether someone has sufficient experience in a licensed child-care center, or in a licensed or registered child-care home?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(no weight) Yes. To determine whether a person has sufficient experience to qualify as a director, we may, at our own discretion, verify child-care experience and substitute child-care experience via the Internet, telephone or mail contact with previous employer(s), or through our records.

§746.1027. What credit courses does Licensing recognize as child development?

Subchapter D, Personnel
Division 1, Child-Care Center Director
December 2010

(no weight) 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 third grade, and other similar courses may be counted, provided the course content relates to child development or the topics specified in §746.1309 of this title (relating to How many clock hours of annual training must be obtained by caregivers?). Abnormal psychology and secondary education courses are not recognized as child development.

§746.1029. What credit courses does Licensing recognize as management?

Subchapter D, Personnel
Division 1, Child-Care Center Director
December 2010

(no weight) 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.

§746.1031. What are clock hours?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(no weight) 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.

§746.1033. Must the trainer or provider of clock hours meet specific criteria?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(no weight) We do not have specific criteria established for someone to be a trainer or provider of clock hours.

§746.1035. What are CEUs?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(no weight) CEUs (continuing education units) 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.

§746.1037. 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, Child-Care Center Director
September 2003

(no weight) You may only substitute clock hours or CEUs for required credit hours in child development and business management. You may substitute 50 clock hours or five CEUs for each three college credit hours required in child development and/or business management.

§746.1039. What kind of documentation must I submit to Licensing to show my child-care center director is qualified and when must I submit it?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(a) You must submit the following for each director at your child-care center:

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

High (2) A completed Licensing *Request for Criminal History and Central Registry Check form*;

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

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

Medium (5) An original and current *Licensing Child-Care Center 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.

(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 director.

§746.1041. What documentation must I have to prove that the person received the clock hours or CEUs?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(no weight) You must have documentation specified in §746.1329 of this title (relating to What documentation must I provide to Licensing to verify that training requirements have been met?).

§746.1043. What documentation must I provide to Licensing to show that my director has acceptable child development and business management education?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(no weight) If requested by Licensing, you must provide original transcripts, supporting documentation such as credit course catalog descriptions, or a course syllabus or outline to determine whether the course is recognized as child development or business management.

§746.1045. Does education received outside of the United States substitute for the education requirements for a child-care director?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

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.

§746.1047. Will Licensing keep the original training certificates and college transcripts I submit to obtain a Licensing director's certificate?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(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.

§746.1049. What happens if Licensing determines that my child-care center director does not meet minimum standard qualifications?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(no weight) We will notify you that your director is in violation of minimum standards for failure to meet child-care center 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.

§746.1051. Will my director receive a certificate verifying that director qualifications have been met?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(no weight) Yes. After we determine that your director meets minimum standard qualifications, we will issue a Licensing *Child-Care Center Director's Certificate*. The certificate verifies only that the named person meets minimum standard qualifications specified in §746.1015 of this title (relating to What qualifications must the director of my child-care center licensed for 13 or more children meet?) or §746.1017 of this title (relating to What qualifications must the director of my child-care center licensed for 12 or fewer children meet?).

§746.1053. Will the director's certificate expire?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(no weight) The director's certificate will have an expiration date, if the director was qualified under subsection (a), options (5) or (6) in §746.1015 of this title (relating to What qualifications must the director of my child-care center licensed for 13 or more children meet?) or subsection (a), options (4) or (6) in §746.1017 of this title (relating to What qualifications must the director of my child-care center licensed for 12 or fewer children meet?). Otherwise the Licensing *Child-Care Center Director's Certificate* will not expire.

§746.1055. How often must an expiring certificate be renewed?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(no weight) If you qualify under subsection (a), options (5) or (6) in §746.1015 of this title (relating to What qualifications must the director of my child-care center licensed for 13 or more children meet?) or subsection (a), options (4) or (6) in §746.1017 of this title (relating to What qualifications must the director of my child-care center licensed for 12 or fewer children 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 *Child-Care Center Director's Certificate*.

§746.1057. What happens if I do not submit the documentation confirming the credential is current?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

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 child-care center director, you violate minimum standards.

§746.1059. If I hire someone who was qualified as a director at another licensed child-care center in Texas, must I resubmit all of the information to Licensing staff for review?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(no weight) (a) If you can provide an original and current Licensing director's certificate, you will not be required to resubmit the information establishing qualifications.

(no weight) (b) If an original and current Licensing *Child-Care Center 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 child-care center director qualifications.

§746.1061. Does Licensing charge a fee for issuing the director's certificate?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(no weight) No. We do not charge a fee for processing a director's certificate.

§746.1063. Can my director get a replacement Child-Care Center Director's Certificate?

Subchapter D, Personnel
Division 1, Child-Care Center Director
September 2003

(no weight) Yes. We will issue a replacement *Child-Care Center Director's Certificate*, if you submit your request to us in writing, specifying:

(1) The name and address of your child-care center;

(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, Child-Care Center Employees and Caregivers

§746.1101. What is the difference between a child-care center employee and a child-care center caregiver?

Subchapter D, Personnel
Division 2, Child-Care Center Employees and Caregivers
September 2003

(no weight) (a) An employee is any person employed by the child-care center, including caregivers; kitchen, office, or maintenance personnel; other child-care center personnel; and the child-care center director.

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

§746.1103. Are there different personnel qualifications for employees and caregivers?

Subchapter D, Personnel
Division 2, Child-Care Center Employees and Caregivers
December 2010

(no weight) Yes. Personnel requirements for employees apply to all employees and caregivers. Personnel requirements for caregivers apply only to those persons counted in child/caregiver ratio. The following chart outlines the personnel qualifications for employees and caregivers:

Employees not counted in child/caregiver ratio:	**Caregivers counted in child/caregiver ratio:**
DFPS background check	DFPS background check
Be free of active tuberculosis	Be free of active tuberculosis
Notarized Licensing *Affidavit for Applicants for Employment* form; and	Notarized Licensing *Affidavit for Applicants for Employment* form; and
Orientation to the child-care center	Orientation to the child-care center
	18 years old or older
	High school diploma or equivalent
	Eight hours pre-service training

Caregivers assigned responsibility for the care and supervision of a group of children require a different level of skill and knowledge than employees who may have contact with children, but are not responsible for their care.

§746.1105. What minimum qualifications must each of my child-care center employees meet?

Subchapter D, Personnel
Division 2, Child-Care Center Employees and Caregivers
December 2010

Each child-care center employee who is regularly or frequently present while children are in care must:

High (1) Meet the requirements in Subchapter F of Chapter 745 of this title (relating to Background Checks);

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

(no weight) (3) Complete a notarized Licensing *Affidavit for Applicants for Employment* form as specified in Human Resources Code, §42.059; and

(no weight) (4) Complete orientation to your child-care center as specified in Division 4 of this subchapter (relating to Professional Development).

§746.1107. What additional minimum qualifications must each of my caregivers meet?

Subchapter D, Personnel
Division 2, Child-Care Center Employees and Caregivers
December 2010

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 eight hours of pre-service training, as specified in Division 4 of this subchapter (relating to Professional Development) before being counted in the child/caregiver ratio.

- *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 promote a healthy and safe child-care environment.*

§746.1109. 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, Child-Care Center Employees and Caregivers
September 2003

(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 child-care center or a group of children;

Medium-High (2) The person works in the same room with and is supervised by a caregiver qualified under §746.1107 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)

(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 don't leave the person alone with or in charge of a group of children or the child-care center;

Medium-High (2) The person works in the same room with and is supervised by a caregiver qualified under §746.1107 of this title (relating to What additional minimum qualifications must each of my caregivers meet?);

Medium (3) The person is currently enrolled in or has completed a child-care-related career program, which 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.*

§746.1111. Does education received outside of the United States count toward caregiver qualifications?

Subchapter D, Personnel
Division 2, Child-Care Center Employees and Caregivers
September 2003

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.

§746.1113 Do the caregiver qualifications specified in this division apply to a caregiver that was employed before May 1, 1985?

Subchapter D, Personnel
Division 2, Child-Care Center Employees and Caregivers
September 2003

Low A caregiver who worked in a licensed child-care center before May 1, 1985, must comply with all caregiver qualifications with the exception of the educational requirement specified in §746.1107(2) of this title (relating to What additional minimum qualifications must each of my caregivers meet?).

§746.1115. What does Licensing mean by the term "high school equivalent"?

Subchapter D, Personnel
Division 2, Child-Care Center Employees and Caregivers
September 2003

Medium (a) A high school equivalent is a program recognized by the Texas Education Agency (TEA) 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 (GED) certificate.

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

Division 3, General Responsibilities for Child-Care Center Personnel

§746.1201. What general responsibilities do my child-care center employees have?

Subchapter D, Personnel
Division 3, General Responsibilities for Child-Care Center Personnel
December 2010

All child-care center 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;

Medium-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 center; and

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

§746.1203. What additional responsibilities do my caregivers counted in the child/caregiver ratio have?

Subchapter D, Personnel
Division 3, General Responsibilities for Child-Care Center Personnel
December 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 for child-care centers;

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 §746.1205 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:

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

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

Medium-High (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;

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

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

(continued)

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-High (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.

§746.1205. What does Licensing mean by "supervise children at all times"?

Subchapter D, Personnel
Division 3, General Responsibilities for Child-Care Center Personnel
September 2003

(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 child-care center; 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 young children's behaviors are in the best position to safeguard their well-being.*
- *Child-care centers can also establish an understanding with parents regarding who (when the parent and when the center) 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

§746.1301. What training must I ensure that my employees have?

Subchapter D, Personnel
Division 4, Professional Development
March 2012

(a) You must make sure that each employee has the following training:

Low (1) Orientation to the child-care center for all employees, within seven days of employment for an employee hired after September 1, 2011;

Low (2) Pre-service training, unless there is documentation of exemption from the training, in the amount of:

(A) Eight clock hours for caregivers hired prior to September 1, 2011; or

(B) 24 clock hours for caregivers hired after September 1, 2011;

Low (3) 24 clock hours of annual training for caregivers;

Low (4) 30 clock hours of annual training for the director; and

Low (5) CPR and first aid as specified in this division.

(b) For caregivers hired after September 1, 2011:

Low (1) Eight clock hours of the required 24 clock hours for pre-service training must be completed before a caregiver is given responsibility for a group of children; and

Low (2) The remaining 16 hours of pre-service training must be completed within 90 days of employment.

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.

§746.1303. What must orientation for employees at my child-care center 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 your operational policies including discipline and guidance practices, and procedures for the release of children;

Medium-High (3) An overview of your policy on 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.

(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 §746.3803 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 §746.3425 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 center 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 child-care center.*
- *Orientation, which addresses employee responsibilities, is different from training, which addresses issues general to the care of children.*

§746.1305. What must be covered in pre-service training for caregivers?

Subchapter D, Personnel
Division 4, Professional Development
September 2016

(no weight) (a) Pre-service training for caregivers must cover 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.

Medium-High (b) If a caregiver provides care for children younger than 24 months of age, one hour of that caregiver's pre-service training must cover the following topics:

(1) Recognizing and preventing shaken baby syndrome and abusive head trauma;

(2) Understanding and using safe sleep practices and preventing sudden infant death syndrome (SIDS); and

(3) Understanding early childhood brain development.

- *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.*

§746.1307. 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 two years prior experience in a regulated child-care center; or

(2) Documentation of at least 24 clock hours of training in the areas specified in §746.1305 of this title (relating to What must be covered in pre-service training for caregivers?) at another regulated child-care center.

§746.1309. How many clock hours of annual training must be obtained by caregivers?

Subchapter D, Personnel
Division 4, Professional Development
September 2016

Medium-High (a) Each caregiver must obtain at least 24 clock hours of training each year relevant to the age of the children for whom the caregiver provides care.

No Weight (b) The 24 clock hours of annual training are exclusive of any 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) At least one clock hour of the annual training hours must focus on prevention, recognition, and reporting of child abuse and neglect, including:

(1) Factors indicating a child is at risk for abuse or neglect;

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

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

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

Medium-High (e) If a caregiver provides care for children younger than 24 months of age, one clock hour of the annual training hours must cover the following topics:

(1) Recognizing and preventing shaken baby syndrome and abusive head trauma;

(2) Understanding and using safe sleep practices and preventing sudden infant death syndrome (SIDS); and

(3) Understanding early childhood brain development.

Medium (f) 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 the spread of communicable diseases, including immunizations;

(3) Administering medication, if applicable, including compliance with §746.3803 of this title (relating to What authorization must I obtain before administering a medication to a child in my care?);

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

(continued)

(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 §746.3425 of this title (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?).

Low

(g) 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 and 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 (for example, caregivers assigned to an infant or toddler group should receive training on biting and toilet training);

(9) Planning developmentally appropriate learning activities;

(10) Observation and assessment;

(11) Attachment and responsive care giving; and

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

Medium Low

(h) 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.*

§746.1311. How many clock hours of training must my child-care center director obtain each year?

Subchapter D, Personnel
Division 4, Professional Development
September 2016

Medium-High (a) The child-care center director must obtain at least 30 clock hours of training each year relevant to the age of the children for whom the child-care center provides care.

No Weight (b) The 30 clock hours of annual training are exclusive of any requirements for orientation, pre-service training, CPR and first aid training, and transportation safety training.

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) At least one clock hour of the annual training hours must focus on prevention, recognition, and reporting of child abuse and neglect, including:

(1) Factors indicating a child is at risk for abuse or neglect;

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

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

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

Medium-High (e) If the center provides care for children younger than 24 months of age, one hour of the annual training hours must cover the following topics:

(1) Recognizing and preventing shaken baby syndrome and abusive head trauma;

(2) Understanding and using safe sleep practices and preventing sudden infant death syndrome (SIDS); and

(3) Understanding early childhood brain development.

Medium (f) 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 §746.3803 of this title (relating to What authorization must I obtain before administering a medication to a child in my care?);

(continued)

(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 §746.3425 of this title (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?).

(g) A director with:

Medium- (1) Five or fewer years of experience as a designated director of a child-care center 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 a child-care center must complete at least three clock hours of the annual training hours in management techniques, leadership, or staff supervision.

Low (h) The remainder of the 30 clock hours of annual training must be selected from the training topics specified in §746.1309(g) of this title (relating to How many clock hours of annual training must be obtained by caregivers?).

Low (i) The director may obtain clock hours or CEUs from the same sources as caregivers.

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

Low (k) 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.

§746.1313. When must annual training for my caregivers and director be obtained?

Subchapter D, Personnel
Division 4, Professional Development
December 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.

§746.1315. Who must have first-aid and CPR training?

Subchapter D, Personnel
Division 4, Professional Development
March 2004

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 child-care center, and one caregiver or employee for each group of children away from the child-care center, must have current training in CPR for infants, children, and adults.

Medium-High (c) CPR training and re-certification must adhere to the guidelines for cardiopulmonary resuscitation (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.*

§746.1316. What additional training must a person have in order to transport a child in care?

Subchapter D, Personnel
Division 4, Professional Development
March 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.

§746.1317. 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;

(6) A director at your child-care center who has demonstrated core knowledge in child development and caregiving if:

(A) Providing training to his own staff; and

(B) Your child-care center has not been on probation, suspension, emergency suspension, or revocation in the two years preceding the training or been assessed an administrative penalty in the two years preceding the training; or

(7) 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.

(no weight) (c) Self-instructional training may not be used for CPR or first-aid certification.

(d) All training must include:

Medium-Low (1) Specifically stated learning objectives;

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

Medium (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.

§746.1319. Does Licensing approve training resources or trainers for training hours?

Subchapter D, Personnel
Division 4, Professional Development
September 2003

(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.*

§746.1321. 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 2003

(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.

§746.1323. If I hire a caregiver or a director that received training at another child day-care operation, may these hours count towards the annual training requirement at my center?

Subchapter D, Personnel
Division 4, Professional Development
December 2010

(no weight) If the caregiver or director is able to provide documentation of training as specified in §746.1329 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 child-care center, 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.

§746.1325. What is self-instructional and instructor-led training?

Subchapter D, Personnel
Division 4, Professional Development
March 2012

(no weight) (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.

(no weight) (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 §746.1317(d) of this title (relating to Must the training for my caregivers and the director meet certain criteria?).

§746.1329. 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 child-care center. 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 §746.1317 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.

(continued)

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 Contractors

§746.1401. What minimum standards must substitutes comply with?

Subchapter D, Personnel
Division 5, Volunteers, Substitutes, and Contractors
September 2003

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.

§746.1403. What minimum standards must volunteers or any person under contract with the center comply with?

Subchapter D, Personnel
Division 5, Volunteers, Substitutes, and Contractors
December 2010

Medium (a) Volunteers and any person under contract with the center, whether paid or unpaid, who are regularly or frequently present at the child-care center 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 center, whether paid or unpaid, who are regularly or frequently present at the child-care center 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 center 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 §746.105(29) 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 Child-Care Center

§746.1501. What is child/caregiver ratio?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 1, Ratios and Group Sizes at the Child-Care Center
September 2003

(no weight) (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 problems.

§746.1503. What is considered a group?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 1, Ratios and Group Sizes at the Child-Care Center
September 2003

(no weight) 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 child-care center, 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.

§746.1505. 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 Child-Care Center
September 2003

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 ten children may be cared for in the same room if the placement of shelves, accordion doors, or low movable walls 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.

§746.1507. How do I determine the child/caregiver ratio?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 1, Ratios and Group Sizes at the Child-Care Center
September 2003

In determining child/caregiver ratio, the following apply:

Medium (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 child-care center.

Medium (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 (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. For example, if a group of toddlers is experiencing biting, consider assigning a caregiver who is trained to handle these behaviors and perhaps additional caregivers or volunteers to assist in the supervision and redirection of the children.

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

Medium (5) In emergency situations, you may use child-care center employees 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-High (6) The total number of children in care at the center and in care away from the center, such as during a field trip, must never exceed the licensed capacity of the center.

Division 2, Classroom Ratios and Group Sizes for Centers Licensed To Care for 13 or More Children

§746.1601. How many children may one caregiver supervise?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 2, Classroom Ratios and Group Sizes for Centers Licensed To Care for 13 or More Children
September 2003

Medium-High

The classroom ratio is the number of children one caregiver may supervise and is shown in the following chart. The classroom ratio is based on the specified age of the children in the group, unless otherwise stated in this subchapter:

If the specified age of the children in the group is…	Then the maximum number of children one caregiver may supervise is…
0 – 11 months	4
12 – 17 months	5
18 – 23 months	9
2 years	11
3 years	15
4 years	18
5 years	22
6-8 years	26
9-13 years	26

- *Adults must be more actively involved in the supervision of children under 24 months due to their limited muscle control and physical skills. Children under 24 months are also at greater risk during an emergency requiring evacuation of the center.*
- *Research indicates direct, warm, social interactions between adults and children are more likely to occur with lower child/caregiver ratios.*
- *According to the American Academy of Pediatrics (AAP), caregivers must be recognized as performing a job for groups of children that parents would rarely be considered capable of handling alone. Caring for a group of three infants is the same as caring for infant triplets; four toddlers can be the equivalent to a set of quadruplets.*

§746.1603. 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 for Centers Licensed To Care for 13 or More Children
September 2003

(no weight) 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. Children younger than 24 months should be listed by their age in months. Children two years and older are listed by their age in years.

(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.

(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.

§746.1605. May I combine infants with children 18 months and older?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 2, Classroom Ratios and Group Sizes for Centers Licensed To Care for 13 or More Children
September 2003

Medium-High Yes. If you have 13 or more children in care, you may combine infants with older children as long as the oldest child in the group is not more than 18 months older than the youngest child. For example, if the youngest child in a group is eight months old, the oldest child in the group must not be more than 26 months old.

- *There are some programs that offer what is called "continuity of care" for infants and toddlers. This is where a mixed age group made up of children between the ages of birth through 35 months is cared for together from the time they enroll in the center until they turn three. Benefits of this arrangement include consistency in caregivers in a setting that resembles siblings within a family, as well as developmental and curricular advantages.*
- *When infants are infrequently grouped with older children in a space not specifically designed to meet their needs and without additional caregivers there is increased risk to their health and safety.*

§746.1607. If I have two caregivers with each group, may I double the number of children one caregiver may supervise?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 2, Classroom Ratios and Group Sizes for Centers Licensed To Care for 13 or More Children
September 2003

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

§746.1609. What is the maximum group size?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 2, Classroom Ratios and Group Sizes for Centers Licensed To Care for 13 or More Children
September 2003

Medium-High The maximum group size and the number of children two or more caregivers may supervise when 13 or more children are in care is specified in the following chart and is based on the specified age of the children in the group:

If the specified age of the children in the group is…	Then the maximum group size and number of children two or more caregivers may supervise is…
0 – 11 months	10
12 – 17 months	13
18 – 23 months	18
2 years	22
3 years	30
4 years	35
5 years	35
6-8 years	35
9 – 13 years	35

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.

§746.1611. 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 for Centers Licensed To Care for 13 or More Children
September 2003

(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 18 months through four years, for a maximum of 30 minutes;

Medium (2) For children five years 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.

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 child-care center.

§746.1613. If 13 or more children are in care, 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 for Centers Licensed To Care for 13 or More Children
September 2003

Medium (a) Yes. If 13 or more children are in care, you may reduce the child/caregiver ratio for children 18 months and older 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;

Medium-High (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 child-care center 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

§746.1615. May I adjust the child/caregiver ratio when I am opening and closing my child-care center?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 2, Classroom Ratios and Group Sizes for Centers Licensed To Care for 13 or More Children
September 2003

Medium

Yes. When 13 or more children are in care, children who are 18 months and older may be grouped at a ratio of one caregiver per group of 16 children during the 45 minutes after opening and 45 minutes before closing. Child/caregiver ratios cannot be adjusted during opening and closing for children who are younger than 18 months.

Division 3, Classroom Ratios and Group Sizes for Centers When 12 or Fewer Children are in Care

§746.1701. How many children may one caregiver supervise if 12 or fewer children are in care?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 3, Classroom Ratios and Group Sizes for Centers When 12 or Fewer Children are in Care
September 2003

Medium

The number of children one caregiver may supervise when 12 or fewer children are present at the child-care center is specified in the following ratio chart and is based on the number of children in each age category:

Number of children 0–17 months old	Number of children 18 months – 4 years old	Number of children 5 years old and older	Maximum number of children to be supervised by one caregiver
0	8	4	12
0	7	5	12
0	6	6	12
0	5	7	12
0	4	8	12
0	3	9	12
0	2	10	12
0	1	11	12
0	0	12	12
1	5	5	11
1	4	6	11
1	3	7	11
1	2	8	11
1	1	9	11
1	0	10	11

(continued)

Number of children 0-17 months old	Number of children 18 months - 4 years old	Number of children 5 years old and older	Maximum number of children to be supervised by one caregiver
2	4	4	10
2	3	5	10
2	2	6	10
2	1	7	10
2	0	8	10
3	2	2	7
3	1	3	7
3	0	4	7
4	0	0	4

§746.1703. If I have 12 or fewer children in care, may I combine infants with children 18 months and older?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 3, Classroom Ratios and Group Sizes for Centers When 12 or Fewer Children are in Care
September 2003

Medium-High

Yes. If you have 12 or fewer children in care, infants may be cared for with older children without regard to age, although you must ensure the safety of all children in the group.

§746.1705. If I have two caregivers with each group, may I double the number of children one caregiver may supervise?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 3, Classroom Ratios and Group Sizes for Centers When 12 or Fewer Children are in Care
September 2003

Medium-High

No. The maximum number of children two caregivers may supervise is limited by the maximum group size. When 12 or fewer children are in care, the number of children two caregivers may supervise and the maximum group size is specified in the following chart and is based on the number of children in each age group:

Number of children 0–17 months old	Number of children 18 months old and older	Maximum group size and number of children two caregivers may supervise
0	12	12
1	11	12
2	10	12
3	9	12
4	8	12
5	7	12
6	6	12
7	5	12
8	4	12
9	3	12
10	0	10

§746.1707. What is the maximum group size if I have more than two caregivers supervising the children?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 3, Classroom Ratios and Group Sizes for Centers When 12 or Fewer Children are in Care
September 2003

Medium-High

If 12 or fewer children are in care and you have more than two caregivers supervising the children, the 12 children in care may be any age from birth through 13 years.

§746.1709. May I adjust the child/caregiver ratio when I am opening and closing my child-care center?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 3, Classroom Ratios and Group Sizes for Centers When 12 or Fewer Children are in Care
September 2003

Medium-High

No. Ratios may not be adjusted for opening and closing when 12 or fewer children are in care.

Division 4, Ratios for Field Trips

§746.1801. Do I need additional caregivers when I take children away from the child-care center for field trips or walks?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 4, Ratios for Field Trips
September 2003

Medium-High

(a) When children are on a field trip and are mixing with children and adults who are not from your child-care center, including but not limited to, trips to the skating rink, shopping center, public or amusement park, you must meet the following child/caregiver ratio:

If the age of the youngest child in the group is…	Then you must have (number of caregivers) caregivers to supervise…	Every (number of children) children
0 – 23 months	1	1
2 years	1	2
3 years	1	6
4 years	1	8
5 years	1	10
6 years and older	1	12

Medium-High

(b) The child/caregiver ratio for field trips may include adult volunteers or child-care center employees who are not qualified as caregivers only for trips when children are mixing with non-center children and adults, as long as you maintain at least the classroom child/caregiver ratio with qualified caregivers.

(continued)

Medium-High (c) When children are on a walk or field trip in an enclosed, controlled area, including but not limited to, specially arranged trips to the fire station, library or museum class for children in your child-care center only, you must maintain at least the classroom child/caregiver ratio. Refer to §746.2101 of this title (relating to Must I have additional caregivers for splashing/wading activities?) and §746.2105 of this title (relating to What are the child/caregiver ratios for swimming activities?) for child/caregiver ratios for splashing/wading and swimming activities when children are not mixing with other children and adults.

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.

§746.1805. 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 4, Ratios for Field Trips
September 2003

Medium-High (a) When you transport children younger than two years, you must have one caregiver in addition to the driver for each group of four children younger than two years.

Medium-High (b) When you transport children two years and older, you must comply with classroom child/caregiver ratio. 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 5, Ratios for the Get-Well Care Program

§746.1901. If I operate a get-well care program, must I use a different child/caregiver ratio?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 5, Ratios for the Get-Well Care Program
September 2003

Medium-High

The number of children one caregiver may supervise in a get-well care program is specified in the following chart and is based on the age of the youngest child in the program:

If the age of the youngest child is…	Then you must have (number of caregivers) caregivers to supervise…	Every (number of children) children
0 – 23 months	1	3
2 – 5 years	1	4
6 – 13 years	1	6

§746.1903. What is the child/caregiver ratio if I have more than two caregivers supervising the children in the get-well care program?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 5, Ratios for the Get-Well Care Program
September 2003

Medium-High

The maximum number of children two caregivers may supervise is limited by the maximum group size. The number of children two caregivers may supervise in a get-well care program is specified in the following chart and is based on the age of the youngest child in the group:

If the age of the youngest child is…	Then maximum group size and maximum number of children two caregivers may supervise is…
0 – 23 months	6
2 – 5 years	8
6 – 13 years	12

§746.1905. May I combine infants with children 18 months and older in my get-well care program?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 5, Ratios for the Get-Well Care Program
September 2003

Medium-High

You may care for infants with older children only if there are 12 or fewer children present in the get-well care program.

Division 6, Ratios for Nighttime Care

§746.2001. Must I have additional caregivers during nighttime care?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 6, Ratios for Nighttime Care
September 2003

Medium-High

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 7, Ratios for Water Activities

§746.2101. Must I have additional caregivers for splashing/wading activities?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 7, Ratios for Water Activities
September 2003

Medium-High

(a) The maximum number of children one caregiver can supervise while children use a splashing or wading pool (two feet of water or less) is based on the age of the youngest child in the group and is specified in the following chart:

Ratio for Splashing or Wading Pools (Two Feet Deep or Less)

If the age of the youngest child is…	Then you must have (number) adults to supervise…	Every (number) children.
0 – 23 months	1	1
0 – 23 months	2	4
2 years	1	2
2 years	2	5
3 years	1	6
4 years	1	16
5 years	1	20
6-8 years	1	22
9 years and older	1	22

High

(b) When children are mixing with children and adults who are not from your child-care center during splashing or wading activities, the child/caregiver ratios for field trips as specified in §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?) must be followed.

§746.2105. What are the child/caregiver ratios for swimming activities?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 7, Ratios for Water Activities
September 2003

High (a) When your child-care center uses a swimming pool (more than two feet of water), there must be at least two caregivers supervising the children if four or more children are swimming.

High (b) The maximum number of children one caregiver can supervise while children are swimming is based on the age of the youngest child in the group and is specified in the following chart:

Ratio for Swimming Pools (More Than Two Feet Deep)

If the age of the youngest child is…	Then you must have (number) adult to supervise…	Every (number) children.
0 – 23 months	1	1
2 years	1	2
3 years	1	6
4 years	1	8
5 years	1	10
6 years and older	1	12

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.

§746.2109. 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 7, Ratios for Water Activities
September 2003

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

§746.2111. May I count the certified lifeguard in the child/caregiver ratio?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 7, Ratios for Water Activities
September 2003

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

Medium-High (b) If only children from your child-care center 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 for your center.

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.

§746.2113. Must persons who are counted in the child/caregiver ratio during swimming know how to swim?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 7, Ratios for Water Activities
September 2003

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.

> *The ability to swim is crucial to adequate supervision and safety of children and allows a caregiver to intervene when necessary to protect the child.*

§746.2115. 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 7, Ratios for Water Activities
September 2003

Medium-High — Yes. To meet the child/caregiver ratio for splashing/wading and swimming activities, you may include adult volunteers and adult child-care center employees 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.

§746.2117. Must I have additional caregivers for sprinkler play?

Subchapter E, Child/Caregiver Ratios and Group Sizes
Division 7, Ratios for Water Activities
September 2003

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 Activity Plan

§746.2201. Must caregivers provide planned activities for the children in their care?

Subchapter F, Developmental Activities and Activity Plan
December 2010

Medium (a) Yes. Caregivers must provide planned activities designed to meet the individual needs and developmental level of each child.

Medium (b) 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 child-care center during operating hours. 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.

- *Research has shown that learning in young children is the result of interaction between the child's thoughts and their experiences with materials, ideas, and people. The quality of these interactions is enhanced by providing structure and a variety of opportunities to practice and explore new skills.*
- *While planning children's activities, keep in mind the diverse and ever-changing developmental needs of children, the abilities and interests of the children in the group, and the importance of children's play in developing physically, emotionally, intellectually, and socially.*
- *A child-care center 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 online at http://www.dfps.state.tx.us*

§746.2203. Must caregivers have written activity plans?

Subchapter F, Developmental Activities and Activity Plan
December 2010

Medium (a) Yes. Your director or each caregiver must develop a written activity plan. The plan must outline the daily routines and specific activities for each age 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.

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

§746.2205. What should the activity plan include?

Subchapter F, Developmental Activities and Activity Plan
December 2010

(a) The written activity plan must include at least the following:

Medium (1) The group the activity plan is designed for and dates (daily, weekly, or monthly) the plan covers;

Medium (2) A variety of activities daily;

Medium (3) Outdoor play in which the children make use of both small and large muscles, both in the morning and afternoon;

Medium (4) A balance of active and quiet play including group and individual activities both indoors and outdoors;

Medium (5) Regular meal and snack times;

Medium (6) Supervised naptimes;

Medium (7) Both child-initiated and caregiver-initiated activities;

Medium (8) Sufficient time for activities and routines so that children can progress at their own developmental rate; and

Medium (9) No long waiting periods between activities or prolonged periods during which children stand or sit.

Medium (b) The written activity plan may include screen time activities (T.V., videos, computer, or video games), if you also include alternative activities for children that do not want to participate.

- *Research indicates children receive the greatest developmental benefits from attending centers which offer a variety of activities addressing emotional, social, intellectual, and physical development. A planned but flexible program that allows children to make decisions about their activities fosters independence and creative expression.*
- *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.*
- *There is no set amount of time that children must play outdoors in the morning and afternoon. It is recommended that children ages 18 months and older should be allowed 60 to 90 total minutes of outdoor time each day.*
- *Part-day centers open six hours or less, may offer a single outdoor time. Best practice is to offer 20 minutes of outdoor play for every three hours that children may be in care.*

§746.2207. May I use TV/video, computer, or video games for activities with children?

Subchapter F, Developmental Activities and Activity Plan
December 2010

Medium (a) Activities using TV/video, computer, or video games are prohibited for children under the age of two years.

Medium (b) TV/video, computer, or video games may be used to supplement, but may not be used to replace, the activities for children ages two years and older provided as described in §746.2507 of this title (relating to What activities must I provide for toddlers?); §746.2607 of this title (relating to What activities must I provide for pre-kindergarten-age children?); and §746.2707 of this title (relating to What activities must I provide for school-age children?).

(c) If you use TV/video, computer or video games as an activity for children, you must ensure that they:

Medium (1) Are related to the planned activities;

Medium (2) Are age-appropriate; and

Medium (3) Do not exceed two hours per day.

- *The American Academy of Pediatrics (AAP) recommends, for children two years and older, limiting children's total media time to not more than one to two hours of quality programming per 24-hour period*
- *For children under the age of two no media time is recommended since during the first two years of life children's brains and bodies are going through critical periods of growth and development. It is important that very young children have positive social interactions with their parents and caregivers instead of through media time that takes away from these vital interactions.*
- *Studies have shown a relationship between television viewing and increased risk for obesity in children.*

§746.2209. Must I post the activity plan?

Subchapter F, Developmental Activities and Activity Plan
September 2003

Medium Yes. You must post the activity plan for each group of children in the child-care center in a prominent place where parents and others can see it.

Posting a written description of the planned program of daily activities helps caregivers and parents have a common understanding about the center's child-care and education practices and allows for monitoring and accountability of these.

§746.2211. How long must I keep the activity plan?

Subchapter F, Developmental Activities and Activity Plan
September 2003

Medium-Low You must keep activity plans at your child-care center for at least three months and you must make them available for review by Licensing and parents upon request during hours of operation.

Subchapter H, Basic Care Requirements for Infants

§746.2401. What are the basic care requirements for infants?

Subchapter H, Basic Care Requirements for Infants
September 2003

Basic care for infants must include:

Medium (1) Care by the same caregiver on a regular basis, when possible;

Medium-High (2) Individual attention given to each child including playing, talking, cuddling, and holding;

Medium-High (3) Holding and comforting a child who is upset;

Medium-High (4) Prompt attention given to physical needs, such as feeding and diapering;

Medium-High (5) Talking to children as they are fed, changed, and held, such as naming objects, singing, or saying rhymes;

High (6) Ensuring the environment is free of objects that may cause choking in children younger than three years; and

High (7) Never leaving an infant unsupervised.

Children learn best from adults who know and respect them and with whom they have established a trusting relationship. Individual attention received during the early years of life is crucial to a child's emotional and social development. Studies of infant behavior show that infants have difficulty forming trusting relationships in settings where many adults interact with the child. The overall health and well-being of the child can be positively impacted by providing infants with the same caregiver(s) on a regular basis.

The American Academy of Pediatrics (AAP) recommends that the wishes of children, regardless of their ages, should always be respected with regard to physical contact and their comfort/discomfort with it. If a child indicates that he or she does not wish to be held or comforted, even "friendly contact" with a child should be avoided.

§746.2403. How must I arrange the infant care area?

Subchapter H, Basic Care Requirements for Infants
September 2003

The room arrangement of the infant care area must:

High (1) Make it possible for caregivers to see and/or hear all children at a glance and be able to intervene when necessary;

Medium-High (2) Include safe, open floor space for floor time play;

Medium-High (3) Separate infants from children more than 18 months older than the youngest child in the group, except when 12 or fewer children are in care;

Medium-High (4) Have cribs far enough apart so that one infant may not reach into another crib;

Medium-High (5) Provide caregivers with enough space to walk and work between cribs, cots, and mats; and

Medium-High (6) Ensure older children do not use the infant area as a passageway to other areas of the building.

Infants need calm environments away from the stimulation of older children. Placing cribs far enough apart to prevent one child from reaching into the crib of another child protects the safety of the infants. This spacing also reduces the likelihood of transmission of infectious respiratory diseases spread by large droplets, generated by a sneeze or cough, and can be effective in controlling the spread of other infectious diseases in the child care environment.

§746.2405. What furnishings and equipment must I have in the infant care area?

Subchapter H, Basic Care Requirements for Infants
September 2003

Furnishings and equipment for infants must include at least the following:

Medium-High (1) An adult-sized rocker or chair;

Medium-High (2) An individual crib for each non-walking infant;

Medium (3) An individual crib, cot, bed, or mat that is waterproof or washable for each walking infant;

Medium-High (4) A hand-washing sink in the diaper-changing area, as specified in §746.4403 of this title (relating to Must I have a hand-washing sink in the diaper-changing area?); and

Medium-High (5) A sufficient number of toys to keep children engaged in activities.

A chair or rocker allows the caregiver to hold, rock, comfort, talk, sing, and read to infants in an intimate, nurturing manner. It also provides a place for a mother to breastfeed her child.

§746.2407. Must the equipment I use for infants be equipped with safety straps?

Subchapter H, Basic Care Requirements for Infants
September 2003

Medium-High If you use high chairs, swings, strollers, infant carriers, rockers and bouncer seats, or similar types of equipment, they must be equipped with safety straps that must be fastened whenever a child is using the equipment.

§746.2409. What specific safety requirements must my cribs meet?

Subchapter H, Basic Care Requirements for Infants
December 2012

(a) All cribs must have:

Medium-High (1) A firm, flat mattress that snugly fits the sides of the crib. The mattress must not be supplemented with additional foam material or pads;

Medium-High (2) Sheets that fit snugly and do not present an entanglement hazard;

Medium-High (3) A mattress that is waterproof or washable;

Medium-High (4) Secure mattress support hangers, and no loose hardware or improperly installed or damaged parts;

Medium-High (5) A maximum of 2 3/8 inches between crib slats or poles;

High (6) No corner posts over 1/16 inch above the end panels;

High (7) No cutout areas in the headboard or footboard that would entrap a child's head or body;

High (8) Drop gates, if present, which fasten securely and cannot be opened by a child; and

High (9) Documentation that each crib meets the applicable federal rules at Title 16, Code of Federal Regulations, Parts 1219 or 1220, concerning "Safety Standards for Full-Size Baby Cribs" and "Safety Standards for Non-Full-Size Baby Cribs," respectively, or documentation that each crib is a medical device listed and registered with the U.S. Food and Drug Administration.

Medium-High (b) You must sanitize each crib before a different child uses it and when soiled.

High (c) You must never leave children in the crib with the drop gate down.

- *Research shows more babies die in incidents involving cribs than with any other piece of nursery equipment.*
- *If a soda can fits easily between the slats on a crib, the slats are too wide.*
- *A mattress is too loose if there are more than two finger widths between the edge of the mattress and the crib side.*
- *Cribs manufactured before 06/28/2011 may not meet the safety standards established by the Consumer Product Safety Commission (CPSC).*

(continued)

- *Documentation that you may use to verify your crib is in compliance with CPSC regulations includes the certificate of compliance, registration card, or tracking label. You may request this documentation from the manufacturer or retailer.*
  - *The certificate of compliance is a document that describes the crib and whether the crib complies with 16 CFR 1219 or 16 CFR 1220. The certificate includes the contact information for the importer or domestic manufacturer and the testing lab. It also lists the date and location of manufacture and testing.*
  - *The registration card is a postage-paid form provided by the crib manufacturer. The card includes the manufacturer's name and contact information, model name, model number, and the date of manufacture.*
  - *The tracking label is attached to the crib and contains basic information such as the date of manufacture and the source of the crib.*
  - *You may find additional guidance on obtaining supporting documentation for your cribs on the CPSC website at http://www.cpsc.gov.*
- *In order to maintain the required documentation for each crib consider developing a system to easily tie the required documentation to the appropriate crib. Examples may include photographs of each crib attached to the documentation or a tracking sheet that includes information such as the date of purchase, manufacturer and model number, date of manufacture, and what documentation is on file (certificate of compliance, tracking label, or registration card).*

  A crib that meets the definition of "device" in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 201(h)) is subject to regulation by the Food and Drug Administration (FDA), not CPSC. A crib that is not a "device" is subject to CPSC's crib standards.
- *If your crib is a medical device, the manufacturer must be registered with the FDA. For additional information, visit the FDA website at http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/HowtoMarketYourDevice/RegistrationandListing/default.htm*

§746.2411. Are mesh cribs or port-a-cribs allowed?

Subchapter H, Basic Care Requirements for Infants
September 2003

Yes. Non-full-size, portable, or mesh-side cribs are allowed, but some additional safety requirements must be followed:

(1) You must use non-full-size, portable, or mesh-side cribs according to the manufacturer's instructions. These cribs must also have:

Medium-High (A) A minimum height of 22 inches from the top of the railing to the mattress support at its lowest level;

Medium-High (B) Mesh openings that are 1/4 inch or less;

Medium-High (C) Mesh which is securely attached to top rail, side rail, and floor plate; and

Medium-High (D) Folded sides that securely latch in place when raised.

Medium-High (2) You must never leave a child in a mesh-sided crib with a side folded down.

§746.2413. Are stacking wall cribs allowed?

Subchapter H, Basic Care Requirements for Infants
September 2003

Yes. Stacking wall cribs must meet the requirements in §746.2409 of this title (relating to What specific safety requirements must my cribs meet?) and:

Medium-High (1) Are limited to two stacked cribs;

Medium-High (2) Must be used according to manufacturer's directions; and

Medium-High (3) Doors/gates must be securely latched anytime a child is in the crib.

§746.2415. Are specific types of equipment prohibited for use with infants?

Subchapter H, Basic Care Requirements for Infants
December 2012

Yes. The following list of equipment, identified as unsafe for infants by the Consumer Product Safety Commission and the American Academy of Pediatrics, must not be used in the child-care center:

Medium-High (1) Baby walkers;

Medium-High (2) Baby bungee jumpers;

Medium-High (3) Accordion safety gates;

High (4) Toys that are not large enough to prevent swallowing or choking;

High (5) Bean bags, waterbeds, and foam pads for use as sleeping equipment; and

High (6) Soft or loose bedding such as blankets, sleep positioning devices, stuffed toys, quilts, pillows, bumper pads, and comforters must not be used in cribs for children younger than 12 months of age.

Baby walkers present a hazard due to risk of falls down stairs, steps, and tipping over thresholds or carpet edges. They provide infants accessibility to potentially hot surfaces such as oven doors, heaters, and fireplaces; containers of hot liquids such as coffee, soup, or cooking oils; dangling appliance cords; poisonous plants, or hazardous substances, and buckets, toilets, or other containers of water.

Baby bungee jumpers require individual supervision of the child to ensure his safety and are not appropriate for use in a group setting.

Accordion gates with large V-shaped openings along the top edge and diamond shaped openings between the slats present entrapment and entanglement hazards resulting in strangulation, choking, or pinching to children who try to crawl through or over the gate.

Examples of items that present a choking hazard for infants and toddlers include coins, balloons, safety pins, marbles, Styrofoam© and similar products, and sponge, rubber, or soft plastic toys.

Studies on SIDS support eliminating soft bedding materials, sleep positioning devices, and stuffed toys for children under twelve months.

§746.2417. What activities must I provide for infants?

Subchapter H, Basic Care Requirements for Infants
September 2003

Activities for infants must include at least the following:

Medium (1) Daily opportunities for outdoor play as weather permits;

Medium (2) Opportunities to explore outside the crib or other confining equipment multiple times each day;

Medium-High (3) Opportunities for reaching, grasping, pulling up, creeping, crawling, and walking in a safe, clean, uncluttered area;

Medium-High (4) Opportunities for visual stimulation through nonverbal communication. Examples of age-appropriate equipment include large pictures of faces and familiar objects, simple, soft, washable books and toys, unbreakable mirrors or mobiles attached to cribs visible from the baby's position, and brightly patterned crib sheets;

Medium-High (5) Opportunities for auditory stimulation. Examples of age-appropriate equipment or activities include verbal communication, soothing music, and musical or sounding toys;

Medium-High (6) Opportunities for sensory stimulation. Examples of age-appropriate equipment include surfaces, fabrics, textured toys, washable dolls, and toy animals;

Medium-High (7) Opportunities for small-muscle development. Examples of age-appropriate equipment include busy boxes, rattles, teethers, grasping toys, shaking or squeezing toys, or cloth toys; and

Medium-High (8) Opportunities for large-muscle development. Examples of age-appropriate equipment or activities include blankets or quilts for floor time, crib and play gyms, variety of light-weight balls, and pillows or supportive equipment for those learning to sit up.

A chance to play outdoors every day helps keep children healthy. Fresh air in a large space contains fewer germs. Outdoor play also provides a wider variety of opportunities for sensory stimulation through sounds, smells, and textures and is supported by the National Association for the Education of Young Children (NAEYC).

§746.2419. Are there specific requirements for feeding infants?

Subchapter H, Basic Care Requirements for Infants
September 2003

Yes. You must:

Medium-High (1) Hold infants birth through six months while feeding them;

Medium-High (2) Hold infants over six months who are unable to sit unassisted in a high chair or other seating equipment while feeding them;

High (3) Never prop bottles. The child or an adult must hold the bottle;

High (4) Provide regular snack and meal times for infants who eat table food;

Medium-High (5) Ensure children no longer being held for feeding are fed in a safe manner;

Medium-High (6) Label bottles and training cups with the child's first name and initial of last name;

Medium-High (7) Never allow children to walk around with or sleep with a bottle or training cup;

Medium-High (8) Never use the hand-washing sink or diaper-changing surface for food preparation, or for washing food service/preparation equipment, bottles, pacifiers or toys; and

Medium-High (9) Sanitize high chair trays before each use.

- *Research has shown that propping bottles can cause choking, aspiration, and increased risk for development of ear infections, tooth decay, and injuries to the teeth, as well as depriving infants of much-needed face-to-face interaction.*
- *Using diaper changing surfaces and hand-washing sinks for food preparation or for washing items used for food service increases the spread of germs from cross contamination.*

§746.2421. Must I obtain written feeding instructions for children not ready for table food?

Subchapter H, Basic Care Requirements for Infants
September 2003

Medium (a) Yes. For children not yet ready for table food, you must obtain and follow written feeding instructions that are signed and dated by the child's parent or physician.

Medium (b) You must review and update the feeding instructions with the parent every 30 days until the child is able to eat table food.

- *"Table food" refers to regular meals/snacks provided by the child-care center for all children.*
- *Written feeding instructions ensure that all caregivers, including substitutes, have clear instructions for feeding infants. Each child's needs vary greatly during this critical time of growth and development.*
- *Reviewing and updating feeding instructions every 30 days ensures that caregivers are following parent instructions as the nutritional needs of the infants change.*

§746.2423. Must I provide a regularly scheduled naptime for infants?

Subchapter H, Basic Care Requirements for Infants
September 2003

Medium

Yes. Each infant must have a supervised nap period that allows the infant to maintain his or her own pattern of sleeping and waking periods.

§746.2425. How long are infants allowed to remain in their cribs after awakening?

Subchapter H, Basic Care Requirements for Infants
September 2003

Medium

An infant may remain in the crib or other confining equipment for up to 30 minutes after awakening, as long as the infant is content and responsive.

Exploring outside of the crib gives infants freedom of movement, which cannot be met in swings, infant carriers, strollers, or otherwise physically limiting equipment.

§746.2427. Are infants required to sleep on their backs?

Subchapter H, Basic Care Requirements for Infants
September 2003

High

Infants not yet able to turn over on their own must be placed in a face-up sleeping position, unless the child's parent presents written documentation from a health-care professional stating that a different sleeping position is allowed or will not harm the infant.

- *Sudden Infant Death Syndrome (SIDS), the sudden and unexplained death of an infant, is the major cause of death in babies between 1 and 4 months old. After 30 years of research, scientists still cannot find a cause for SIDS; however, research has found the risk of SIDS may be reduced by placing a healthy infant on his or her back to sleep.*
- *If the infant was born with a birth defect, often spits up after eating, or has a breathing, lung, or heart problem, a doctor or nurse may recommend a different sleep position to use.*
- *Providing "tummy time" several times each day is important because it prepares infants for the time when they will be able to slide on their bellies and crawl. The caregiver needs to stay near and closely supervise the infant during tummy time.*

§746.2428. May I swaddle an infant to help the infant sleep?

Subchapter H, Basic Care Requirements for Infants
June 2014

High

No. You may not lay a swaddled infant down to sleep or rest on any surface at any time.

§746.2429. If an infant has difficulty falling asleep, may I cover the infant's head or crib?

Subchapter H, Basic Care Requirements for Infants
September 2003

High — No. Infants must not have their heads, faces, or cribs covered by items such as blankets, linens, or clothing at any time.

§746.2431. Must I share a daily report with parents for each infant in my care?

Subchapter H, Basic Care Requirements for Infants
September 2003

Medium-High — You must provide a daily written report to the child's parent when the child is picked up from the child-care center. The report must contain:

Medium — (1) Times the child slept;

Medium-High — (2) Times and amount of food consumed;

Medium-High — (3) Times of diaper changes;

Medium — (4) Child's general mood for the day; and

Medium — (5) A brief summary of the activities in which the child participated.

Because infants are not able to communicate essential information to their parents, it is important that the caregiver do so. In child-care centers, several caregivers may care for an infant or there may be a shift change. A report for each parent will allow the parent to know how their infant spent the day, so the parent can supplement the infant's activities, meals and so on at home, based on the child's activities. This is a very good way of creating solid communication and healthy relationships with parents, and it enhances the protection and well-being of infants.

Subchapter I, Basic Care Requirements for Toddlers

§746.2501. What are the basic care requirements for toddlers?

Subchapter I, Basic Care Requirements for Toddlers
September 2003

Basic care for toddlers must include:

Medium (1) Routines such as diapering, feeding, sleeping, and indoor and outdoor activity times, maintained as closely as possible;

Medium (2) Care given by the same caregiver on a regular basis, when possible;

Medium-High (3) Individual attention given to each child including playing, talking, and cuddling;

Medium-High (4) Holding and comforting a child who is upset; and

High (5) Ensuring the environment is free of objects that may cause choking in children younger than three years of age.

A commercial choke tube or empty toilet paper roll can be used to test toys and objects in the room that a child may easily choke on. Try to place the toy or object into the tube. If the object easily passes through the tube, a child may choke on it and it should be removed from the children's access. If the object does not fit through the tube, the child is not likely to choke on it.

§746.2503. How must I arrange the toddler care area?

Subchapter I, Basic Care Requirements for Toddlers
September 2003

The toddler care area must include:

Medium (1) Spaces in the room that allow both individual and group time; and

High (2) A play environment that allows the caregiver to supervise all children as defined in §746.1205 of this title (relating to What does Licensing mean by "supervise children at all times"?).

§746.2505. What furnishings and equipment must I provide for toddlers?

Subchapter I, Basic Care Requirements for Toddlers
December 2010

Furnishings and equipment for toddlers must include at least the following:

Medium-High (1) Age-appropriate seating, tables, and nap or rest equipment;

Medium-High (2) Enough popular items available so that toddlers are not forced to compete for them;

Medium (3) Containers or low shelving so items children can safely use without direct supervision are accessible to children; and

Medium (4) Training cups, if used, that are:

(A) Labeled with the child's first name and initial of last name or otherwise individually assigned to each child; and/or;

(B) Cleaned and sanitized between each use.

- *It is acceptable to assign training cups using individualized colors or symbols that a child may recognize as theirs.*
- *If the training cups are cleaned and sanitized between each use then you are not also required to label each cup with the child's name.*

§746.2507. What activities must I provide for toddlers?

Subchapter I, Basic Care Requirements for Toddlers
December 2010

Activities for toddlers must include at least the following:

Medium-High (1) Daily morning and afternoon opportunities for outdoor play when weather permits;

Medium (2) Opportunities for thinking skills and sensory development. Examples of age-appropriate equipment or activities include shape/item sorting toys, stacking or nesting toys, puzzles with less than six pieces, washable board books, washable blocks, and snapping and take-apart toys;

Medium (3) Opportunities for small-muscle development. Examples of age-appropriate equipment or activities include large-size washable crayons and markers, variety of paper and art materials, table or easel for art, large paintbrushes, non-toxic play-dough, large-sized washable toy transportation vehicles, toy animals, and toy people;

Medium (4) Opportunities for large-muscle development. Examples of age-appropriate equipment or activities include low-climbing structures, small riding toys, toys for pushing or pulling, a variety of light-weight balls for indoor and outdoor play, and rhythm instruments;

Medium-High (5) Opportunities for active play both indoors and outdoors. Examples of age-appropriate equipment or activities include music, songs, simple games and dramatic or imaginary play that encourage movement such as dancing, running, climbing, stretching, walking and marching;

(continued)

Medium (6) Opportunities for language development. Examples of age-appropriate equipment or activities include washable soft animals or puppets, simple picture books, and pictures of familiar items and places;

Medium (7) Opportunities for social/emotional development. Examples of age-appropriate equipment or activities include dress-up clothes and accessories, housekeeping equipment, unbreakable mirrors, washable dolls with accessories, items for practicing buttoning, zipping, lacing and snapping, and baskets, tubs, and tote bags (not plastic bags) for carrying and toting;

Medium (8) Opportunities to develop self-help skills such as toileting, hand washing, and feeding;

Medium-High (9) Regular meal and snack times; and

Medium-High (10) Supervised naptimes.

- *You may accommodate weather, air quality, and seasonal changes by adjusting the scheduled outdoor time, the length of time outdoors, and children's clothing.*
- *Indoor and outdoor active play enhances fitness and general health and supports creativity, learning, and development.*
- *Active play opportunities should be offered throughout the day. It is recommended that caregivers incorporate two or more short (5 to 10 minutes) structured activities or games daily that promote physical activity.*
- *Active play should never be withheld from children who misbehave although children exhibiting out of control behavior may need a few minutes to calm themselves or settle down before resuming cooperative play or activities.*
- *Some children may require additional rest time before or after the noon meal outside of the scheduled rest period.*

§746.2509. Must I share a daily report with parents for each toddler in my care?

Subchapter I, Basic Care Requirements for Toddlers
December 2010

Medium No, however you must have a plan for personal contact with parents that provides for an exchange of information regarding observations, comments, and concerns regarding their child.

Although a written report is not required, children benefit when caregivers share any significant information with the parents.

Subchapter J, Basic Care Requirements for Pre-kindergarten Age Children

§746.2601. What are the basic care requirements for pre-kindergarten age children?

Subchapter J, Basic Care Requirements for Pre-Kindergarten Age Children
September 2003

Medium — Caregivers must provide pre-kindergarten age children individual attention and encourage children to communicate and express feelings in appropriate ways.

> *The American Academy of Pediatrics (AAP) offers these examples for encouraging children to communicate, "Ask Johnny if he will share the book." "Tell him you don't like being hit." "Tell Sarah what you saw at the store yesterday." "Tell mommy about what you built in the block center this morning." Follow these encouraging statements with respectful listening, without pressuring the child to speak.*

§746.2603. What physical space requirements must I provide for pre-kindergarten age children?

Subchapter J, Basic Care Requirements for Pre-Kindergarten Age Children
September 2003

Physical space requirements for pre-kindergarten age children must include:

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

Medium-High — (2) Space in which children are allowed to find or create individual activities, but which still permits the caregiver to easily supervise.

> *The National Association for the Education of Young Children reports that a learning environment that supports child initiated activities and individual learning styles fosters confidence and curiosity in the child.*

§746.2605. What furnishings and equipment must I provide for pre-kindergarten age children?

Subchapter J, Basic Care Requirements for Pre-Kindergarten Age Children
September 2003

Furnishings and equipment for pre-kindergarten age children must include at least the following:

(1) Interest centers, such as dramatic play, block building, stories and books, science and nature activities, art and music activities, sensory, and problem-solving activities that are:

Medium (A) Clearly defined;

Medium (B) Organized for independent use by children; and

Medium-High (C) Arranged so the children's activities are visible to the caregiver;

Medium (2) Age-appropriate seating, tables, and nap or rest equipment;

Medium (3) Enough popular items available so that children are not forced to compete for them; and

Medium (4) Containers or low shelving available so items children can safely use without direct supervision are accessible to children.

- *First-hand experiences encourage children to talk to each other and to adults, to seek increasingly more complex vocabulary, and to use language to express thinking, feeling, and curiosity.*
- *Bored or frustrated children may be indicators of inappropriate or insufficient equipment and materials.*

§746.2607. What activities must I provide for pre-kindergarten age children?

Subchapter J, Basic Care Requirements for Pre-Kindergarten Age Children
December 2010

Activities for pre-kindergarten age children must include at least the following:

Medium-High (1) Daily morning and afternoon opportunities for outdoor play when weather permits;

Medium (2) Opportunities for thinking skills and sensory development. Examples of age-appropriate equipment or activities include sand/water play, blocks, framed puzzles with up to 30 pieces, variety of large stringing beads, and simple board games;

Medium (3) Opportunities for small-muscle development. Examples of age-appropriate equipment or activities include large non-toxic crayons, markers, paint, water colors and various size brushes, adjustable easels, collage materials, chalkboard and chalk, clay/dough and tools, workbench and accessories, round end scissors, glue and paste, different types of music and videos, rhythm instruments, and fingerplays;

(continued)

Medium (4) Opportunities for large-muscle development. Examples of age-appropriate equipment or activities include small wagons, light-weight balls of all sizes, small wheelbarrows, tricycles, push toys, swings, slides, climbing equipment, balance beam, hanging bars, and outdoor building materials;

Medium-High (5) Opportunities for active play both indoors and outdoors. Examples of age-appropriate equipment or activities include active games such as tag and hot potato, dancing and creative movement to music and singing, simple games and dramatic or imaginary play that encourages running, stretching, climbing, walking and marching;

Medium (6) Opportunities for language development. Examples of age-appropriate equipment or activities include flannel board stories, puppets, and variety of storybooks, writing materials, and stories on tape;

Medium (7) Opportunities for social/emotional development. Examples of age-appropriate equipment or activities include dress-up clothes and accessories, mirrors, dolls, simple props for different themes, puppets, transportation toys, play animals, and table games;

Medium (8) Opportunities to develop self-help skills such as toileting, hand washing, returning equipment to storage areas or containers, and serving and feeding;

Medium-High (9) Regular meal and snack times; and

Medium-High (10) Supervised naptimes.

- *You may accommodate weather, air quality, and seasonal changes by adjusting the scheduled outdoor time, the length of time outdoors, and children's clothing.*
- *Indoor and outdoor active play provides for greater freedom and flexibility, fuller expression through loud talk, and a greater range of active movement.*
- *Active play opportunities should be offered throughout the day. It is recommended that caregivers incorporate two or more short (5 to 10 minutes) structured activities or games daily that promote physical activity.*
- *Active play should never be withheld from children who misbehave although children exhibiting out of control behavior may need a few minutes to calm themselves or settle down before resuming cooperative play or activities.*

See §§746.2901-746.2911 for additional minimum standards on naptime.

Subchapter K, Basic Care Requirements for School-age Children

§746.2701. What are the basic care requirements for school-age children?

Subchapter K, Basic Care Requirements for School-age Children
September 2003

Basic care requirements for school-age children must include:

Medium (1) Individual attention from and conversation with adults;

Medium (2) Physical care routines appropriate to each child's developmental needs;

Medium (3) Flexible programming according to ages, interests, and abilities of the children; and

Medium-High (4) A caregiver who is aware of the arrival and departure of each child, including dismissing children who ride the bus or walk home.

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.

§746.2703. What physical space requirements must I provide for the school-age care area?

Subchapter K, Basic Care Requirements for School-age Children
September 2003

The school-age care area must include:

Medium (1) Space to set up interest centers or focused play areas during the activity, such as arts and crafts; music and movement; blocks and construction; drama and theater; math and reasoning activities; science and nature; language and reading activities, such as books, story tapes and language games, stories read or told on a weekly basis, and cultural awareness, which are:

Medium (A) Organized for independent use by children; and

Medium-High (B) Arranged so the caregiver can supervise the children according to §746.1205 of this title (relating to What does Licensing mean by "supervise children at all times"?);

Medium (2) Space where children can have individual activities yet be supervised; and

Medium (3) Space for quiet time to do homework.

§746.2705. What furnishings and equipment must I provide for school-age children?

Subchapter K, Basic Care Requirements for School-age Children
September 2003

Medium Furnishings and equipment for school-age children must include at least the following:

Medium (1) Age-appropriate seating, tables, or desks to meet children's needs, such as workspace to do homework and table-top activities;

Medium (2) Age-appropriate nap or rest equipment; and

Medium (3) Containers or shelving available so that items children can safely use without direct supervision are accessible to children.

§746.2707. What activities must I provide for school-age children?

Subchapter K, Basic Care Requirements for School-age Children
December 2010

Activities for school-age children must include at least the following:

Medium (1) Study time for those children who choose to work on homework assignments;

Medium-High (2) Daily morning and afternoon opportunities for outdoor play when weather permits;

Medium (3) Opportunities for thinking skills and sensory development. Examples of age-appropriate equipment or activities include sand and water play; construction materials/blocks; puzzles with 50 or more pieces; pattern-making materials, such as wood, paper, plastic, beads, ceramic tiles, cloth, or cardboard; games that contain rules and require some skill or strategy; specific skill development materials, such as rulers, tape measures, telescopes, weather observation equipment, models of the solar system, and microscopes; books; and magazines;

Medium (4) Opportunities for small-muscle development. Examples of age-appropriate equipment or activities include art and craft materials, such as paints, markers, colored pencils, crayons, clay, weaving, or braiding materials; music and musical instruments of all types; and tape/CD recorders and players;

Medium (5) Opportunities for large-muscle development. Examples of age-appropriate equipment or activities include balls and sports equipment, such as kick balls, baseballs, soccer balls, basketballs, skates, and horseshoes; riding equipment, such as kick scooters or skateboards, with kneepads, elbow pads, and helmets; outdoor and gym equipment such as slides, swings, climbing apparatus, and upper-body equipment;

Medium-High (6) Opportunities for active play both indoors and outdoors. Examples of age-appropriate equipment or activities 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;

(continued)

Medium (7) Opportunities for social/emotional development. Examples of age-appropriate equipment or activities include dolls with detailed, realistic accessories; role-play materials, including real equipment for library, hospital, post office, costumes, makeup and disguise materials; puppets and puppet show equipment; transportation toys, such as small vehicles or models; play and art materials; nature materials; and human and animal figurines;

Medium (8) Regular meal and snack times; and

Medium (9) Naptimes, or a period of rest for those children too old to nap, during which children should be supervised according to §746.1205 of this title (relating to "What does Licensing mean by "supervise children at all times"?).

- *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.*
- *Indoor and outdoor active play enhances fitness and general health and supports creativity, learning, and development.*
- *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, or listening to soft music or books on tape.*

See §§746.2901-746.2911 for additional minimum standards on naptime.

Subchapter L, Discipline and Guidance

§746.2801. To what extent may caregivers discipline the children in their care?

Subchapter L, Discipline and Guidance
September 2003

Discipline must be:

Medium (1) Individualized and consistent for each child;

Medium-High (2) Appropriate to the child's level of understanding; and

Medium (3) Directed toward teaching the child acceptable behavior and self-control.

§746.2803. What methods of discipline and guidance may a caregiver use?

Subchapter L, Discipline and Guidance
September 2003

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 aim 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.*

§746.2805. What types of discipline and guidance or punishment are prohibited?

Subchapter L, Discipline and Guidance
September 2003

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.*

§746.2807. May my employees discipline their own children who are in care at my center?

Subchapter L, Discipline and Guidance
September 2003

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.

It is recommended that a caregiver does not work with a group of children that includes her own child since it may be difficult for the child to understand why he must share his parent's attention with other children.

§746.2809. Must I have a written discipline and guidance policy?

Subchapter L, Discipline and Guidance
December 2010

Medium-High (a) You must 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.

Medium (b) You must provide a copy of your written discipline and guidance policy to parents and employees.

Medium-High (c) You must keep documentation showing that all parents and employees have received a copy of your written discipline and guidance policy. You may do this as a part of your operation policies or in a separate document.

§746.2813. How often must I update my written discipline and guidance policy?

Subchapter L, Discipline and Guidance
September 2003

Medium You must update your written discipline and guidance policy each time you make changes. You must keep documentation at your child-care center showing that all parents and employees have received a copy of your revised discipline and guidance policy.

Subchapter M, Naptime

§746.2901. Must children have a naptime every day?

Subchapter M, Naptime
September 2003

Medium-High

You must provide a supervised sleep or rest period after the noon meal for all children 18 months of age or older who are in care five or more consecutive hours, or according to the child's individual physical needs. You may provide sleep or rest for each child who attends the child-care center for fewer than five hours and whose individual physical needs call for a rest period while the child is in care.

§746.2903. How long may the nap and rest time last each day?

Subchapter M, Naptime
September 2003

Medium

The sleep or rest period must not exceed three hours.

§746.2905. Are children required to sleep during this time?

Subchapter M, Naptime
September 2003

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.

§746.2907. Must I provide an alternative activity for those children who cannot sleep?

Subchapter M, Naptime
September 2003

Medium

(a) 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.

Medium

(b) You must take a toddler who sleeps or rests in a crib out of the crib for other activities when he awakens.

§746.2909. Must I arrange the napping equipment in a specific manner?

Subchapter M, Naptime
December 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 to provide a sufficient walk and work space for caregivers between each cot and mat;

Medium-High (4) Be arranged so that each child and caregiver has access to a walkway without having to walk on or over the cots or mats of other children; and

High (5) Be arranged so the caregiver can adequately supervise all children in the group, as specified in §746.1205 of this title (relating to What does Licensing mean by "supervise children at all times"?).

§746.2911. May I darken the room while children are sleeping?

Subchapter M, Naptime
September 2003

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.

Subchapter N, Field Trips

§746.3001. May I take children away from my child-care center for field trips?

Subchapter N, 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 child-care center. 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 child-care center and the child-care center's telephone number;

Medium-High — (7) Each caregiver must be easily identifiable by all children on the field trip by wearing a hat, child-care center 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.

§746.3003. Must I notify parents before I take children away from the child-care center on a field trip?

Subchapter N, Field Trips
September 2003

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 child-care center. 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 child-care center.

§746.3005. Must I have additional caregivers present to take children on a field trip?

Subchapter N, Field Trips
September 2003

(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 O, Get-Well Care Program

§746.3101. May I care for children who are ill?

Subchapter O, Get-Well Care Programs
September 2003

Medium

Yes, if you are licensed as a get-well care program to provide care for children who are ill. The primary objective of this program is to ensure that children in care receive the required attention necessary for certain ill children, as specified in this subchapter.

§746.3103. Which children may be included in the get-well care program?

Subchapter O, Get-Well Care Programs
December 2010

Medium

Get-well care includes care for children who are too sick to attend well-child day care according to the exclusions in Subchapter R, Division 3 of this chapter (relating to Illness and Injury), but who do not exhibit any of the excludable diseases defined by the Texas Department of State Health Services (DSHS) in 25 TAC §97.7 (relating to Diseases Requiring Exclusion from Schools).

§746.3105. What must I do before I admit a child to my get-well care program?

Subchapter O, Get-Well Care Programs
September 2003

Medium

Before a child may enter your get-well care program, you must determine the child's needs and that your program can meet those needs without compromising the care of other children in the program.

§746.3107. When must I remove a child from my get-well care program?

Subchapter O, Get-Well Care Programs
December 2010

Medium

You must remove a child from your get-well care program immediately when the child's condition meets one of the excludable diseases or symptoms specified by DSHS. The child may return to your regular child-care program when you have obtained a doctor's statement that he no longer has the excludable condition, or when the child is free of symptoms for 24 hours.

§746.3109. Are the parents of children in the get-well care program required to provide a doctor's statement before I may admit the child?

Subchapter O, Get-Well Care Programs
September 2003

Medium

No. Each parent must provide you with information on the child's specific diagnosis from a health-care professional, including current status of the illness, any dietary needs, activity level, and medication plan. You must record this information and the name and telephone number of the health-care professional on the get-well care program admission form or other similar form that captures the same information. You must update this information as the child's needs or diagnosis changes.

§746.3111. Must I care for children in the get-well care program in an area separate from the well children in care?

Subchapter O, Get-Well Care Programs
September 2003

If your get-well care program is located in the same building as your other child-care programs:

Medium (1) The get-well care program must have a separate entrance and a separate ventilation system;

Medium (2) Indoor hallways, bathrooms, and activity areas utilized by the get-well care program must be separate from the other child-care programs;

Medium (3) A single kitchen may be used if the cook has no child-care responsibility;

Medium (4) Separate toileting facilities must be available for the children in the get-well care program from the children in the well child-care program at a ratio of one toilet for every ten children; and

Medium-High (5) Linens, furniture, fixtures, equipment, and supplies designated for use by the get-well care program must be sanitized before being used by the well children.

Most health authorities believe that adequate space and ventilation reduce the transmission of disease.

§746.3113. What extra safety features must I have in my get-well care program?

Subchapter O, Get-Well Care Programs
September 2003

Medium-High (a) You must care for children with respiratory illnesses separately from children with gastrointestinal illnesses. Curtains, partitions, or walls can define separate rooms.

Medium-High (b) A hand-washing sink must be available in every room in your get-well care program.

Medium-High (c) If children in diapers are in care, the diaper-changing surface must be adjacent to the hand-washing sink.

Hand-washing sinks stationed in each room provide the opportunity to maintain cleanliness and give the caregivers an opportunity for continuous supervision of the other children in care.

§746.3115. May caregivers working with the get-well care program also work with other children in the child-care center?

Subchapter O, Get-Well Care Programs
September 2003

Medium-High No. Caregivers supervising and caring for children in your get-well care program must not also care for well children in the child-care center on the same day.

The American Academy of Pediatrics (AAP) supports separating caregiver responsibilities, limiting child- to-child interaction, and limiting the co-mingling of supplies, toys, and equipment to reduce the likelihood of disease transmission between ill and well children.

§746.3117. Do caregivers in my get-well care program require special training or qualifications?

Subchapter O, Get-Well Care Programs
September 2003

Medium — Yes, in addition to the regular caregiver qualifications, get-well care program caregivers must:

Medium-High — (1) Have current certification in CPR and first aid, including rescue breathing and choking; and

Medium-High — (2) Have five additional hours of annual training in general infection control procedures, recognition and care of children with mild childhood illnesses, and child development activities for children who are ill for a total of 20 hours per year.

Special training is required for employees who care for ill children because they are dealing with communicable diseases and need to know how to prevent the spread of infection.

§746.3119. May the director of my well child-care program also direct my get-well care program?

Subchapter O, Get-Well Care Programs
September 2003

Yes, although the director of your get-well care program must:

Medium — (1) Meet all qualifications specified in Subchapter D of this chapter (relating to Personnel);

Medium — (2) Not be counted in child/caregiver ratio or be responsible for supervising or caring for any children in either program;

Medium-High — (3) Have current certification in CPR and first aid, including rescue breathing and choking; and

Medium — (4) Have ten additional hours of annual training in prevention and control of communicable diseases, and care of ill children, for a total of 30 hours per year.

§746.3121. Must I provide activities for children in the get-well care program?

Subchapter O, Get-Well Care Programs
September 2003

You must:

Medium (1) Provide quiet activities appropriate to each child's developmental age and needs; outdoor play is not required;

Medium (2) Give children access to nap or rest areas without distraction or disturbance from other activities when the child demonstrates a need for rest or desires to rest; and

Medium-High (3) Follow physician's directions.

According to the American Academy of Pediatrics (AAP), ill children, like well children, need to engage in activities that are suitable to their age and developmental level and which are consistent with their state of health or illness and their accompanying level of interest or responsiveness. A low level of responsiveness in the school-age child may lead to her sleeping and resting for much of the day, requiring a minimum of activities and stimulation. Infants, toddlers, and pre-kindergarten age children tend to be unable to rest for such long periods of time, and therefore may require more attention from the caregiver in terms of providing activities and guidance.

§746.3123. Must my get-well care program follow any special handling procedures?

Subchapter O, Get-Well Care Programs
September 2003

Yes. You must follow these handling procedures when providing get-well care:

Medium-High (1) Sanitize all laundry each day and when soiled;

Medium-High (2) Keep all garbage containers covered and take them out of the building daily;

Medium-High (3) Sanitize all toys and equipment after every use and before a different child uses them;

Medium-High (4) Use disposable, single-use cups, plates, and utensils for food service and drinks; and

Medium-High (5) Provide nutritious meals and snacks according to the children's needs or the directions of a health-care professional.

Subchapter P, Nighttime Care

§746.3201. What is nighttime care?

Subchapter P, Nighttime Care
September 2003

(no weight) (a) Nighttime care is care given on a regular or frequent basis to children who are starting or continuing their night sleep, or to children who spend the night or part of the night at the child-care center between the hours of 9:00 p.m. and 6:00 a.m.

Medium (b) Nighttime care does not include the occasional sleep-over program offered at infrequent intervals. Notify us before offering either program.

§746.3203 May I provide nighttime care to children at my child-care center?

Subchapter P, Nighttime Care
September 2003

Medium-High (a) Yes, you may care for children both during the day and night if we approve it. Even then, a child may only be in care for:

Medium (1) No more than 16 hours within a 24-hour period on a daily basis; or

Medium (2) No more than three consecutive 24-hour periods with a maximum of six 24-hour periods per month, as specified in §745.383 of this title (relating to Can a licensed child day-care operation offer 24-hour care?).

Medium (b) You cannot exceed these limits without getting a license for a residential child-care operation.

§746.3205. Must caregivers stay awake while supervising children during nighttime care?

Subchapter P, Nighttime Care
December 2010

High Yes. Caregivers supervising children during nighttime care must be awake and supervising the children at all times, as specified in §746.1205 of this title (relating to What does Licensing mean by "supervise children at all times"?).

Additional safety precautions must be in place to protect sleeping children and to allow for timely evacuation in case of emergency.

§746.3207. What are the building, furnishings, physical space, and equipment requirements for nighttime care?

Subchapter P, Nighttime Care
September 2003

In addition to all other building, furnishing, physical space, and equipment requirements specified in this chapter:

High (1) All exits must be visible. This may be provided by lighted exit signs or by lighted exits (such as a hall light or lamp, which lights the exit path and door);

Medium-High (2) You cannot count a window as one of the child-care center's required fire exits;

Medium-High (3) Each child 18 months and older must be provided a cot, bed, or mattress that is waterproof or washable and developmentally appropriate;

Medium-High (4) Children under the age of 18 months must be provided with a crib for nighttime sleeping; and

Medium (5) Boys and girls six years old or older must have separate sleeping and dressing areas.

§746.3209. Must I provide activities for children in nighttime care?

Subchapter P, Nighttime Care
September 2003

Medium Yes. Activities and routines must meet the unique needs of children in nighttime care. These may include quiet activities such as homework, reading, puzzles, or board games; time for personal care routines and preparation for sleep, such as brushing teeth, washing hands and face, toileting, and changing clothes; and an evening meal, breakfast and/or snack as specified in Subchapter Q of this chapter (relating to Nutrition and Food Service).

Subchapter Q, Nutrition and Food Service

§746.3301. What are the basic requirements for snack and mealtimes?

Subchapter Q, Nutrition and Food Service
September 2016

Medium-High (a) You must serve all children ready for table food 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 child-care center 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 always 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 except for a special occasion such as a holiday or birthday celebration.

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 §746.3817 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.*

§746.3303. How often must I feed children in my care?

Subchapter Q, Nutrition and Food Service
December 2010

Medium (a) You must offer each child in care for less than four hours at least one snack as specified in §746.3307 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.

(no weight) (e) If your child-care center 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.

§746.3305. How do I know what a child's daily food needs are?

Subchapter Q, Nutrition and Food Service
December 2010

Medium-High (a) The daily food needs for children 12 months through two years are included in the following chart:

Food Groups	Number of Servings To Meet 1/3 Daily Needs	Number of Servings To Meet 1/2 Daily Needs	Serving Size
Milk	1 and 1/3	2	4 oz. Milk or 1/2 oz. Cheese or 4 oz. Yogurt
Meat/ Meat Alternative	1	1 and 1/2	1/2 to 1 oz. Cooked lean meat or 1/2 to 1 Egg or 1/4 c. cooked beans
Vegetables and Fruit	1 and 1/3 +	2 +	2 to 3 Tb. Cooked vegetables or 2 to 3 Tb. Canned fruit or 1/4 Small fresh fruit or 1/4 c. Juice
Whole Grains	1 and 1/3 +	2 +	1/2 Slice Bread or 1/4 c. Cooked Cereal or 1/4 c. Pasta or Rice or 1 or 2 Crackers

(continued)

Medium-High

(b) The daily food needs for children three years through five years 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

(continued)

Medium-High

(c) The daily food needs for children six years 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

(d) You must serve enough food to allow children second servings from the vegetable, fruit, grain, and milk groups.

(no weight)

(e) If your child-care center 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 American Academy of Pediatrics (AAP) recommends that children ages two and older should be served skim or 1% milk.*
- *Offer a variety of fresh or frozen fruits and vegetables.*
- *To help ensure that grains are whole-grain, look closely at the ingredient list to make sure the first ingredient listed is "whole 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.*

§746.3307. What kind of foods must I serve for snacks?

Subchapter Q, Nutrition and Food Service
September 2003

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 grain group; or

(4) One serving from the meat or meat alternative group.

The American Academy of Pediatrics (AAP) affirms that, since young children eat in small feedings and a child's appetite and interest in food may vary from one meal or snack to the next, children need to be fed often. Snacks often become a significant part of a child's daily food intake as a result of this.

§746.3309. May parents provide meals and/or snacks for their children instead of my child-care center providing these?

Subchapter Q, Nutrition and Food Service
July 2005

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 child-care center 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 §746.3307 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 child care center employee who has knowledge of the food ingredients and individual children's needs.

§746.3311. How should my child-care center meet the needs of children who require special diets or do not want to eat foods we serve?

Subchapter Q, Nutrition and Food Service
September 2003

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.

§746.3313. Must I post and maintain daily menus?

Subchapter Q, Nutrition and Food Service
September 2003

Yes. You must:

Medium (1) Post daily menus showing all meals and snacks prepared and served by the child-care center where parents and others can see them. Substitutions must be of comparable food value. Keep a record of any substitutions made;

Medium (2) Date menus and keep copies for review for three months; and

Medium (3) If you rotate menus, keep a record of which menu was used for each date.

- *Planning menus in advance helps to ensure that adequate food will be on hand.*
- *Posting menus helps to inform parents about food served in the child-care center and enables them to balance it with the food they serve at home.*

§746.3315. May I serve powdered milk?

Subchapter Q, Nutrition and Food Service
December 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.

§746.3316. May I serve fruit or vegetable juices?

Subchapter Q, Nutrition and Food Service
December 2010

Yes, you may serve fruit or vegetable juices if you:

Medium (1) Serve only 100% fruit or vegetable juice;

Medium (2) Only serve to children ages 12 months and older; and

Medium (3) Only serve up to four ounces for children ages 12 months through five years of age and six ounces for children ages six and older per day when using towards daily food needs.

- *The American Academy of Pediatrics (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.*
- *Children under the age of 12 months should not be served juice at all. Whole fruit, mashed or pureed, is recommended for infants seven months up to one year of age.*

§746.3317. What general requirements apply to food service and preparation?

Subchapter Q, Nutrition and Food Service
September 2003

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 child-care center lacks adequate facilities for sanitizing dishes and utensils, you must use only disposable, single-use items;

Medium (3) You must wash re-useable napkins, bibs, and tablecloths after each use;

Medium-High (4) You must discard single-service napkins, bibs, 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, napkins, or other sanitary holders such as a high chair tray, and you must not place food on a bare table or eating surface, which includes the floor;

High (7) You must not serve foods that present a risk of choking for infants and toddlers;

Medium-High (8) You must cover all food stored in the refrigerator;

(continued)

Medium-High (9) When meals are prepared at the child-care center, 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 (10) You must not store poisonous or toxic materials and cleaning supplies with food.

- *Research has shown that 90% of fatal choking occur in children younger than four years of age. Examples of foods that present a risk of choking include hot dogs sliced into rounds, whole grapes, hard candy, string cheese, nuts, seeds, raw peas, dried fruit, pretzels, chips, peanuts, popcorn, marshmallows, spoonfuls of peanut butter, and chunks of meat larger than can be swallowed whole.*
- *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.*

§746.3319. Must I serve meals family style?

Subchapter Q, Nutrition and Food Service
September 2003

(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. They also learn about counting, colors, shapes, amounts, smells, temperatures, and tastes.*
- *While feeding themselves, children use fine motor skills and learn self-help skills that build a child's self-esteem.*
- *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.*

§746.3321. Are children allowed to use toothbrushes after meal and snack times?

Subchapter Q, Nutrition and Food Service
September 2003

(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 R, Health Practices

Division 1, Environmental Health

§746.3401. Must my child-care center have an annual sanitation inspection?

Subchapter R, Health Practices
Division 1, Environmental Health
June 2014

Medium-High (a) Your child-care center must have a sanitation inspection before we issue your initial permit and at least once every 12 months, unless your child-care center 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 center and make it available to us upon request.

§746.3403. How do I document that a sanitation inspection has been completed?

Subchapter R, Health Practices
Division 1, Environmental Health
December 2010

Medium-High If required, you must keep a copy of the most recent sanitation report, letter, or checklist at the child-care center during hours of operation to verify the inspection date and findings. The report must include the name and telephone number of the inspector.

§746.3405. Do I have to make corrections called for in the report?

Subchapter R, Health Practices
Division 1, Environmental Health
December 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.

§746.3407. What steps must I take to ensure a healthy environment for children at my child-care center?

Subchapter R, 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) Setting aside toys and equipment that are placed in children's mouths, or are otherwise contaminated by body secretion or excrement, to be sanitized before handling by another child;

Medium-High (2) Machine washing cloth toys, if used, at least weekly and when contaminated;

Medium-High (3) Machine washing all linens at least weekly, and when soiled or before another child uses them;

Medium-High (4) Sanitizing sleeping equipment before a different child uses it and when soiled;

Medium-High (5) Sanitizing potty-chairs after each child's use;

Medium-High (6) Emptying water play tables and toys used in water tables daily, sanitizing, and ensuring children and caregivers wash their hands before using the water table;

Medium-High (7) Maintaining sand boxes and sand tables in a sanitary manner;

Medium-High (8) Making all garbage inaccessible to children and managing it to keep the child-care center inside and outside, free of insects, rodents, and offensive odors, and disposing of it according to local and state requirements;

Medium-High (9) Keeping all floors, ceilings, and walls in good repair and clean. Paints used at the child-care center must be lead-free;

Medium-High (10) Keeping all parts of the child-care center used by children well heated, lighted, and ventilated;

Medium-High (11) Sanitizing table tops, furniture, and other similar equipment used by children when soiled or contaminated with matter such as food, body secretions, or excrement;

High (12) Clearly marking cleaning supplies and other toxic materials and keeping them separate from food and inaccessible to children; and

Medium-High (13) 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 centers. Providing enough toys to rotate through the cleaning process allows children to stay in active play while maintaining a healthy environment.*

§746.3409. What does Licensing mean when it refers to "sanitizing"?

Subchapter R, Health Practices
Division 1, Environmental Health
December 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.

§746.3411. What is a disinfecting solution?

Subchapter R, Health Practices
Division 1, Environmental Health
December 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 such as bathrooms, crib rails, and diaper-changing tables; 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, like crib rails and toys.

Things to look for when determining if a commercial product is appropriate to use as a disinfecting solution include:

- *The EPA registration number on the container or label*
- *Directions for use in a medical setting such as a hospital or clinic.*
- *Whether or not the product may be used on food contact surfaces and in areas used by children.*

§746.3413. May I use a dishwasher or washing machine to sanitize items at my child-care center?

Subchapter R, Health Practices
Division 1, Environmental Health
September 2003

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.

§746.3415. When must employees wash their hands?

Subchapter R, Health Practices
Division 1, Environmental Health
September 2003

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 child-care center;

Medium-High (4) After diapering a child;

Medium-High (5) After assisting a child with toileting;

Medium-High (6) After personal toileting;

Medium-High (7) After handling or cleaning body fluids, such as after wiping noses, mouths, or bottoms, and tending sores;

Medium-High (8) After handling or feeding animals;

Medium-High (9) After outdoor activities;

Medium-High (10) After handling raw food products;

Medium-High (11) After eating, drinking, or smoking; and

Medium-High (12) After using any cleaners or toxic chemicals.

When hand washing and cleaning routines are modeled, the children learn good health and safety practices.

§746.3417. When must children wash their hands?

Subchapter R, Health Practices
Division 1, Environmental Health
September 2003

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 or having a diaper changed;

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.

§746.3419. How must children and employees wash their hands?

Subchapter R, Health Practices
Division 1, Environmental Health
September 2003

Medium-High Children 18 months of age and older 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 centers.*
- *The Centers for Disease Control (CDC) recommends these hand washing steps:*
  - *Wet your hands with clean running water and apply soap*
  - *Rub your hands together to make lather and scrub them well; be sure to scrub the backs of your hands, between your fingers, and under your nails.*
  - *Continue rubbing your hands for at least 20 seconds (tip: hum the "Happy Birthday" song twice.*
  - *Rinse your hands well under running water.*
  - *Dry your hands using a clean towel or air dry.*
  - *Use a paper towel to turn off the faucet.*
- *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.*

§746.3421. How must I wash an infant's hands?

Subchapter R, Health Practices
Division 1, Environmental Health
September 2003

Medium-High (a) Until the infant is old enough to be raised to the faucet and reach for the water, you must wash the infant's hands using an individual cloth or disposable towel with soap, followed by a cloth or disposable towel used to rinse with clear water and dry.

Medium-High (b) Use soap and running water as specified in this division when infants are old enough to be raised to the faucet and reach for the water and 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.

§746.3423. Must my child-care center have hot water for hand washing?

Subchapter R, Health Practices
Division 1, Environmental Health
September 2003

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 and children under five are the most frequent victims. If a local health department requires water hotter than 120 degrees F for other uses in the child-care center, several measures are available to adjust water temperature at a hand-washing sink.*

§746.3425. Must caregivers wear gloves when handling blood or bodily fluids containing blood?

Subchapter R, 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 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.

Although human milk is a body fluid, it is not necessary to wear gloves when feeding or handling human milk.

§746.3427. Must I use a licensed exterminator to treat my child-care center for insects, rodents, and other pests?

Subchapter R, Health Practices
Division 1, Environmental Health
December 2010

Medium-High You may treat your center 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 Department of Agriculture to prevent, control, or eliminate pest infestations at your child-care center, including the use of over-the-counter products designed for controlling insects, rodents, and other pests.

Refer to the Structural Pest Control Act and related regulation for further information on pest control before treating your child-care center.

§746.3429. Are there general precautions I must take when my child-care center is being treated for insects, rodents, and other pests?

Subchapter R, Health Practices
Division 1, Environmental Health
September 2003

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.

§746.3431. May I use water from a private water supply instead of a public water supply for my child-care center?

Subchapter R, Health Practices
Division 1, Environmental Health
September 2003

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.

Medium-High (2) Maintain written records indicating the private water supply meets the requirements of the Texas Commission on Environmental Quality, if applicable.

§746.3433. May I use a septic system for sewage disposal?

Subchapter R, Health Practices
Division 1, Environmental Health
September 2003

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, Diaper Changing

§746.3501. What steps must caregivers follow for diaper changing?

Subchapter R, Health Practices
Division 2, Diaper Changing
September 2003

Caregivers must:

Medium-High (1) Promptly change soiled or wet diapers or clothing;

Medium-High (2) Thoroughly cleanse 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) Ensure that the children are dry before placing a new diaper on the child. If the child must be dried, you must use a clean, individual cloth or disposable towel to dry the child. You must discard the disposable towel after use and launder any cloth before using it again;

Medium-High (4) Not apply powders, creams, ointments, or lotions without the parent's written permission. If the parent supplies these items, permission is implicit and you do not need to obtain permission for each use;

Medium (5) Label powders, creams, ointments, or lotions with the individual child's name; and

Medium-High (6) Keep all diaper-changing supplies out of children's reach.

- *A pleasant attitude while changing a child's diaper, even if a child has had a loose stool, helps to develop a child's positive sense of self.*
- *Wipes are helpful in removing residue, such as food off a baby's face or feces from a baby's bottom during diaper changing.*
- *Parents need to give permission before over-the-counter creams or powders are used. A parent can address whether the child has a skin allergy or if a child's pediatrician does not recommend use of topical products when diapering. Caregivers may seek written permission to use these products before the need arises.*

§746.3503. What equipment must I have for diaper changing?

Subchapter R, Health Practices
Division 2, Diaper Changing
December 2010

Medium-High (a) You must have a diaper-changing table or surface that is smooth, non-absorbent, and easy to clean.

Medium-High (b) You must not use areas that children come in close contact with during play or eating, such as dining tables, sofas, or floor play areas, for diaper changing.

(c) To prevent a child from falling, a diaper-changing surface that is above the floor level:

Medium-High (1) Must have a safety mechanism (such as safety straps or raised sides) that is used at all times when the child is on the surface; or

Medium-High (2) The caregiver's hand must remain on the child at all times when the child is on the surface.

Medium-High (d) You must have a hand-washing sink in the diaper-changing area. Refer to §746.4403 of this title (relating to Must I have a hand-washing sink in the diaper-changing area?).

A separate area used for diaper changing and/or changing of soiled underwear reduces contamination of other parts of the child-care environment.

§746.3505. What must I do to prevent the spread of germs when diapering children?

Subchapter R, Health Practices
Division 2, Diaper Changing
September 2016

Medium-High (a) You must wash your hands as specified in §746.3419 of this title (relating to How must children and employees wash their hands?).

Medium-High (b) You must wash the infant's hands or see that the child's hands are washed after each diaper change as specified in §746.3421 of this title (relating to How must I wash an infant's hands?).

Medium-High (c) If you use disposable gloves, you must discard them after each diaper change and wash your hands with soap and running water.

Medium-High (d) Caregivers with open wounds and/or any injury that inhibits hand washing, such as casts, bandages, or braces, must not change diapers.

Medium-High (e) You must sanitize the diaper-changing surface after each use. Refer to §746.3409 of this title (relating to What does Licensing mean when it refers to "sanitizing"?). However, if you are changing diapers on a number of children consecutively, you may cover the surface with a non-absorbent paper liner that is disposed of between each diaper change.

Medium-High (f) You must cover containers used for soiled diapers or keep them in a sanitary manner, such as placing soiled diapers in individual sealed bags.

Medium-High (g) You must place soiled clothing in a sealed plastic bag to be sent home with the child.

(continued)

- *Recommendation: Assembling all of the supplies necessary for a diaper change before bringing the child to the changing table ensures the protection of the child. If the hand-washing sink is not adjacent to the diapering area, wipes may be used, as a temporary measure only, to clean the caregiver's and child's hands while supervising the child on the changing table.*
- *During diaper changing, a child's hands often stray into the area of the child's body covered by the diaper. Germs are contained in human waste and body fluids and are present on the skin and the diaper even if they cannot be seen. Washing an infant's hands after each diaper change helps reduce the spread of germs.*
- *Because of the risk of splashing, and gross contamination of hands, sinks, and bathroom surfaces, rinsing diapers or clothes soiled with fecal material in the child-care setting increases the risk that you, other caregivers, and the children would be exposed to germs that cause infection.*
- *Rotating 2 changing mats throughout the day, using one while another is sanitized and dries, provides an alternative to waiting between diaper changes.*

Division 3, Illness and Injury

§746.3601. What type of illness would prohibit a child from being admitted for care?

Subchapter R, Health Practices
Division 3, Illness and Injury
December 2010

Unless you are licensed to provide get-well care, you must not admit an ill child for care if one or more of the following exists:

Medium (1) The illness prevents the child from participating comfortably in child-care center 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;

(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 child-care center's activities:

Medium (A) Oral temperature of above 101 degrees and accompanied by behavior changes or other signs or symptoms of illness;

Medium (B) Rectal temperature of above 102 degrees and accompanied by behavior changes or other signs or symptoms of illness;

Medium (C) Armpit temperature of 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

(continued)

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.

> *When taking a child's temperature, the American Academy of Pediatrics (AAP) recommends that:*
>
> - *Rectal temperatures should only be taken by persons with specific health training in this procedure.*
> - *Electronic devices for measuring temperature require periodic calibration and specific training in proper technique.*
> - *The height of fever does not indicate a more or less severe illness.*

§746.3603. What communicable diseases would exclude a child from attending my child-care center?

Subchapter R, Health Practices
Division 3, Illness and Injury
December 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 DSHS or Licensing staff.

§746.3605. What if a child becomes ill while in care?

Subchapter R, Health Practices
Division 3, Illness and Injury
September 2003

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.

§746.3607. How should caregivers respond to critical illness or injury?

Subchapter R, Health Practices
Division 3, Illness and Injury
September 2003

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;

Low (3) Contact the physician identified in the child's record;

High (4) Contact the child's parent; and

High (5) Ensure supervision of other children in the group.

If emergency medical services has been contacted it is not necessary to also contact the child's physician unless directed to do so by EMS personnel.

§746.3609. What is a vaccine-preventable disease for the purpose of this division?

Subchapter R, 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.

§746.3611. What must a policy for protecting children from vaccine-preventable diseases include?

Subchapter R, 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;

(continued)

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 S, Safety Practices

Division 1, Safety Precautions

§746.3701. What safety precautions must I take to protect children in my child-care center?

Subchapter S, Safety Practices
Division 1, Safety Precautions
September 2003

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 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.*
- *According to the U.S. Consumer Product Safety Commission (CPSC), any body of water including bathtubs, pails, and toilets presents a drowning risk to young children. An estimated 50 infants and toddlers drown each year in buckets containing liquid used for mopping floors and other cleaning chores. The 5-gallon bucket presents the greatest hazard to young children because of its tall straight sides and its weight with even a small amount of liquid. It is nearly impossible for top-heavy infants and toddlers to free themselves when they fall into a 5-gallon bucket head first.*

§746.3703. How can I ensure the safety of the children from other persons?

Subchapter S, Safety Practices
Division 1, Safety Precautions
September 2003

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 child-care center, 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 child-care center, during transportation, or on field trips.

High (d) People must not smoke or use tobacco products at the child-care center, on the premises, on the playground, in transportation vehicles, or during field trips.

- *According to the American Academy of Pediatrics (AAP), scientific evidence has linked respiratory health risks to secondhand smoke. Infants and young children exposed to secondhand smoke are at increased risk of developing respiratory infections such as bronchitis and pneumonia, and middle ear infections.*
- *Separation of smokers and nonsmokers within the same air space does not eliminate or minimize exposure of nonsmokers to secondhand smoke.*

§746.3705. Am I required to have a video or audio monitoring system?

Subchapter S, Safety Practices
Division 1, Safety Precautions
December 2010

(no weight) Although permissible, you are not required to have a video or audio monitoring system.

Research has shown that many incidents of abuse of children in child care occur when one caregiver is alone with a child and not easily observed from outside the area. Assuring that all children and caregivers are observable at all times greatly reduces the risk to children. Examples of removing barriers that prevent observation include keeping classroom doors open, placing windows in classroom doors, ensuring the presence of a second caregiver with the group, the use of close circuit cameras, or the use of mirrors.

§746.3707. Are firearms or other weapons allowed at my child-care center?

Subchapter S, Safety Practices
Division 1, Safety Precautions
September 2003

(no weight) (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 child-care center.

High (b) For all other persons, firearms, hunting knives, bows and arrows, and other weapons are prohibited on the premises of the child-care center, unless the child-care center is also your residence.

High (c) Firearms, hunting knives, bows and arrows, and other weapons kept on the premises of a child-care center located in your home must remain in a locked cabinet inaccessible to children during all hours of operation.

High (d) Ammunition must be kept in a separate locked cabinet and inaccessible to children during all hours of operation.

§746.3709. May I have other toys or equipment that explodes or shoots things?

Subchapter S, Safety Practices
Division 1, Safety Precautions
September 2003

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 a child-care center located in your home must remain in a locked cabinet inaccessible to any child during all hours of operation.

Division 2, Medications and Medical Assistance

§746.3801. What does “medication” refer to in this division?

Subchapter S, Safety Practices
Division 2, Medications 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 diaper ointment or sunscreen.

§746.3803. What authorization must I obtain before administering a medication to a child in my care?

Subchapter S, Safety Practices
Division 2, Medications 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.

§746.3805. How must I administer medication to a child in my care?

Subchapter S, Safety Practices
Division 2, Medications 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.

§746.3807. How must I store medication that I administer to a child?

Subchapter S, Safety Practices
Division 2, Medications and Medical Assistance
September 2003

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.

§746.3809. How long may I keep the medication that I administer to a child?

Subchapter S, Safety Practices
Division 2, Medications and Medical Assistance
September 2003

Medium You must dispose of the medication or return it to the parent when the child withdraws from the child-care center, or when the medication is out-of-date or is no longer required for the child.

§746.3811. Do I have to notify parents if I do not want to administer medications?

Subchapter S, Safety Practices
Division 2, Medications and Medical Assistance
September 2003

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.

§746.3813. What is specialized medical assistance?

Subchapter S, Safety Practices
Division 2, Medications 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.

§746.3815. What are my requirements regarding specialized medical assistance?

Subchapter S, Safety Practices
Division 2, Medications and Medical Assistance
March 2012

High (a) If a child in your care requires specialized medical assistance, then you are required to provide 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.

§746.3817. What is a food allergy emergency plan?

Subchapter S, Safety Practices
Division 2, Medications 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.

§746.3819. When must I have a food allergy emergency plan for a child?

Subchapter S, Safety Practices
Division 2, Medications 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 Child-Care Center

§746.3901. What steps must I take to have animals at my child-care center?

Subchapter S, Safety Practices
Division 3, Animals at the Child-Care Center
September 2003

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 in to 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 child-care center allows parents to decide whether to enroll their child and whether to prohibit or allow their child to have contact with the animals.

§746.3903. Must I keep documentation of vaccinations on file for the animals?

Subchapter S, Safety Practices
Division 3, Animals at the Child-Care Center
December 2010

Medium-High (a) Yes. You must have documentation at your child-care center 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 child-care center 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.*

§746.3905. Must I prevent children from having contact with certain animals while at my child-care center?

Subchapter S, Safety Practices
Division 3, Animals at the Child-Care Center
December 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 child-care center 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

§746.4001. Must I have a first-aid kit at my child-care center?

Subchapter S, Safety Practices
Division 4, First-Aid Kits
September 2003

Medium-High Yes. You must have a complete first-aid kit available in each building at the child-care center, 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.

§746.4003. What items must each first-aid kit contain?

Subchapter S, Safety Practices
Division 4, First-Aid Kits
December 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

§746.4101. Who may I release children to?

Subchapter S, Safety Practices
Division 5, Release of Children
September 2003

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.*

§746.4103. How do my employees verify the identity of a parent or a person a parent has designated to pick up the child?

Subchapter S, Safety Practices
Division 5, Release of Children
September 2003

Medium-High (a) You must develop child-care center 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 child-care center transports children, the plan must include verifying the identity of a person to whom you release a child from a child-care-center transportation vehicle.

Medium-High (b) Your policies must include a reasonable means to record the identity of the individual, such as a copy of a valid photo identification, an instant photograph of the individual, or recording the driver's license number and car tag 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 child-care center's policies for the release of children, including the verification plan.

Division 6, Product Safety

§746.4131. What are "children's products?"

Subchapter S, Safety Practices
Division 6, Product Safety
March 2010

(no weight) Children's products are products that are designed or intended to be used by a child under 13 years of age or used by a caregiver during the care of a child under 13 years of age. The term does not include:

(1) An item that is not designed or intended to be used solely or primarily by a child under 13 years of age or for the care of a child under 13 years of age;

(2) A medication, drug, food, or other item that is intended to be ingested; or

(3) Clothing.

§746.4133. When is a children's product considered to be unsafe?

Subchapter S, Safety Practices
Division 6, Product Safety
March 2010

(no weight) A children's product is considered to be unsafe if after it has been recalled for any reason by the United States Consumer Product Safety Commission:

(1) The recall has not been rescinded; and

(2) The product has not been made safe through being remanufactured or retrofitted.

§746.4135. What are my responsibilities regarding unsafe children's products in my child-care center?

Subchapter S, Safety Practices
Division 6, Product Safety
March 2010

Medium-High (a) You are responsible for reviewing the United States Consumer Product Safety Commission (CPSC) recall list. You may view all current and past recalls through the CPSC's Internet website at: www.cpsc.gov. You must ensure that there are no unsafe children's products in your child-care center unless one or more of the following apply:

(1) The product is an antique or collectible children's product and is not used by, or accessible to any child; or

(2) The unsafe children's product is being retrofitted to make it safe and the product is not used by, or accessible to any child.

Medium (b) You must certify annually in writing using a form provided by DFPS that you have reviewed each of the recall notices issued by the CPSC and that there are no unsafe products in the center except products specified in subsection (a) of this section. The form must be kept on file and available for review upon request by Licensing staff, parents, and employees during hours of operation.

Medium (c) You must post a notice for parents and employees in a prominent and publicly accessible place that includes information on how to access a listing of unsafe children's products through the CPSC Internet website or through the DFPS Internet website.

A copy of the required form specified in subsection (b) above may be obtained from Licensing staff or the DFPS website at: http://www.dfps.state.tx.us

Subchapter T, Physical Facilities

Division 1, Indoor Space Requirements

§746.4201. How many square feet of indoor activity space must I have for children?

Subchapter T, Physical Facilities
Division 1, Indoor Space Requirements
September 2003

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 child-care center 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.*

§746.4203. Am I required to care for children younger than 18 months separately from older children?

Subchapter T, Physical Facilities
Division 1, Indoor Space Requirements
September 2003

Medium-High Yes. You must care for children younger than 18 months in rooms and outdoor activity space areas separate from older children unless there are 12 or fewer children in the child-care center, or the child-care center is exempt based on criteria specified in this division.

§746.4205. Must I limit the number of children in each room based on the indoor activity space measurements for that room?

Subchapter T, Physical Facilities
Division 1, Indoor Space Requirements
September 2003

Medium-High (a) Yes. For children less than 18 months old, the number of infants must not exceed the activity space.

Medium-High (b) For children 18 months and older, more children than the room measurement will accommodate must not routinely occupy rooms, unless the age of the children, the equipment and furnishings, and the activity being conducted in the room make it possible.

§746.4207. Do these indoor activity space requirements apply to my child-care center if it was licensed before September 1, 2003?

Subchapter T, Physical Facilities
Division 1, Indoor Space Requirements
September 2003

(a) Indoor activity space requirements for child-care centers licensed before September 1, 2003, vary based on the following:

Low (1) Child-care centers 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. Children under 18 months of age must be cared for in rooms and outdoor activity space areas separate from older children unless there are 12 or fewer children in the child-care center.

Medium (2) Child-care centers licensed as a day-care center between August 31, 1997, and September 1, 2003, must have at least 30 square feet of indoor activity space. Each child under 18 months of age must have 30 square feet of indoor activity space in the area in which you provide care. You must care for children under 18 months of age in rooms and outdoor activity space areas separate from older children unless there are 12 or fewer children in the child-care center.

Low (3) Child-care centers 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.

Low (4) Child-care centers licensed as a drop-in child-care 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, 2003, is no longer valid.

§746.4213. How does Licensing determine the indoor activity space?

Subchapter T, Physical Facilities
Division 1, Indoor Space Requirements
December 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; and

(3) Excluding single-use areas. See §746.105(43) of this title (relating to What do certain words and terms mean when used in this chapter?) for more information on 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.

(no weight) (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.

§746.4215. May other programs use my indoor activity space at the same time I have children in care?

Subchapter T, Physical Facilities
Division 1, Indoor Space Requirements
December 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 center.*
- *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.*

§746.4217. May I care for children above or below ground level?

Subchapter T, Physical Facilities
Division 1, Indoor Space Requirements
September 2003

Medium-High 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

§746.4301. How many square feet of outdoor activity space must I have?

Subchapter T, Physical Facilities
Division 2, Outdoor Space Requirements
September 2003

Medium (a) You must have 80 square feet of outdoor activity space for each child using the outdoor activity area at one time, unless you are licensed to provide only:

(1) An alternate care program; or

(2) A get-well care program.

Medium (b) You must have enough square footage in the outdoor activity space to equal at least 25% of your licensed indoor capacity.

Low (c) If you were licensed before September 1, 2003, you do not have to comply with the outdoor activity space requirements specified in subsection (b) of this section unless the permit issued prior to September 1, 2003, is no longer valid.

- *The National Association for the Education of Young Children 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.*

§746.4305. Must I fence the outdoor activity space?

Subchapter T, Physical Facilities
Division 2, Outdoor Space Requirements
September 2003

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:

(1) You are licensed to provide only an after-school care program in a classroom facility owned, operated, and administered by and located in a public school as defined by the Texas Education Agency;

(2) You are licensed to provide only an alternate care program;

(3) You are licensed to provide only a get-well care program; or

(4) The only children using the outdoor activity space are five years old or older.

Enclosed outdoor areas keep pre-kindergarten age and younger children in a controlled area for their safety and ease of supervision.

§746.4307. How many exits must I have from my fenced outdoor activity space?

Subchapter T, Physical Facilities
Division 2, Outdoor Space Requirements
September 2003

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.

§746.4309. May I keep the gates leading into my outdoor activity space locked while children are in care?

Subchapter T, Physical Facilities
Division 2, Outdoor Space Requirements
September 2003

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.

§746.4311. Must the outdoor activity space be connected to the child-care center?

Subchapter T, Physical Facilities
Division 2, Outdoor Space Requirements
September 2003

Medium-High

No; however, all outdoor activity areas used by children must be accessible by a safe route. We must approve a plan to use an outdoor activity space that is not connected to the child-care center, such as a near-by park, schoolyard, rooftop, or other alternative. We will consider the following criteria before approving the plan:

(1) Traffic patterns of vehicles and people in the area;

(2) Ages of children in the groups;

(3) Availability of appropriate equipment;

(4) Usage of the location by other persons when the children would be most likely to use it;

(5) Neighborhood circumstances, hazards, and risks;

(6) Accessibility to children and caregivers on foot or the availability of push-carts or other means of transporting infants and toddlers;

(7) Reasonable accessibility of restroom facilities; and

(8) Ability to obtain assistance if needed when injury or illness occurs.

§746.4313. Must I comply with additional requirements if my plan to use an outdoor activity space not connected to my child-care center is approved by Licensing?

Subchapter T, Physical Facilities
Division 2, Outdoor Space Requirements
September 2003

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.

§746.4315. May other programs use my outdoor activity space at the same time I have children in care?

Subchapter T, Physical Facilities
Division 2, Outdoor Space Requirements
December 2010

Medium (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 center.*
- *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

§746.4401. How many hand-washing sinks must I have in my child-care center for children's use?

Subchapter T, Physical Facilities
Division 3, Toilets and Sinks
September 2003

Medium-High (a) If you are licensed to serve 13 or more children, unless otherwise specified in this division, you must have one sink for every 17 children who are 18 months of age and older.

Medium-High (b) 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 (c) 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 (d) If you were licensed as a drop-in child-care center before September 1, 2003, you must have at least one sink for every 25 children.

Medium (e) A kindergarten and nursery school; school: grades kindergarten and above; and drop-in child-care 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.

A sufficient number of sinks are necessary to meet the children's physical needs in a timely and sanitary manner.

§746.4403. Must I have a hand-washing sink in the diaper-changing area?

Subchapter T, Physical Facilities
Division 3, Toilets and Sinks
September 2003

Medium (a) You must have one hand-washing sink in each diaper-changing area, placed so that the caregiver using it can maintain supervision of the children in the group as specified in §746.1205 of this title (relating to What does Licensing mean by "supervise children at all times"?).

Medium (b) If your child-care center was licensed as a day care center, group day care home or drop-in child-care center before September 1, 2003, and you are unable to comply with subsection (a) of this section, you must submit to us and follow a plan for each diaper-changing area that ensures children are supervised at all times and caregivers and children are washing hands as specified in this chapter.

Low (c) A child-care center licensed before September 1, 2003, must comply with the requirements specified in subsection (a) of this section if the permit issued prior to September 1, 2003, is no longer valid.

The Centers for Disease Control (CDC) affirms that hand washing is the number one way to control the spread of disease and germs in the child care setting. Caregivers are less likely to wash hands before and after each diaper change if the sink is not accessible in the room. Infants are more likely to be left unsupervised if the caregiver must leave the room to wash her hands.

§746.4405. Where must I locate the hand-washing sinks for children's use?

Subchapter T, Physical Facilities
Division 3, Toilets and Sinks
September 2003

Medium Hand-washing sinks must be inside the child-care center. Children 18 months of age and older 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 R of this chapter (relating to Health Practices) for further information on hand washing.

§746.4407. How many toilets am I required to have in my child-care center?

Subchapter T, Physical Facilities
Division 3, Toilets and Sinks
September 2003

Medium (a) If you are licensed to serve 13 or more children, you must have one flush toilet for every 17 children who are 18 months of age and older.

Medium (b) 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 (c) If you were licensed as a kindergarten and nursery school, or school: grades kindergarten and above, before September 1, 2003, you must have one toilet for every 20 children.

Low (d) If you were licensed as a drop-in child-care center before September 1, 2003, you must have at least one toilet for every 25 children.

Low (e) A child-care center 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.

§746.4409. Where must the toilets be located?

Subchapter T, Physical Facilities
Division 3, Toilets and Sinks
September 2003

Medium Toilets must be inside the child-care center. Children 18 months of age and older 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.

§746.4411. May I count urinals in the ratio of children to toilets?

Subchapter T, Physical Facilities
Division 3, Toilets and Sinks
September 2003

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.

§746.4417. May potty-chairs be used?

Subchapter T, Physical Facilities
Division 3, Toilets and Sinks
September 2003

Medium Yes. Potty-chairs may be used, but you may not count them in the ratio of children to toilets.

§746.4419. Do I have to use toilets, sinks and fountains that are child sized?

Subchapter T, Physical Facilities
Division 3, Toilets and Sinks
September 2003

Medium-High 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 them with anchored steps and/or a broad-based platform with a non-slip surface.

§746.4421. May the doors to the restroom or toilets have locks on them?

Subchapter T, Physical Facilities
Division 3, Toilets and Sinks
September 2003

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 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.

§746.4423. 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 T, Physical Facilities
Division 3, Toilets and Sinks
December 2010

(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 address:

Medium (A) The ages of the children;

Medium (B) The proximity of restroom facilities, and the center's entrances and exits to the children's area; and

Medium (C) The nature of other activities and persons who may be sharing the toilets and hand washing sinks.

Medium-High (b) You must follow the plan and submit a copy of Licensing upon request.

Division 4, Furniture and Equipment

§746.4501 What type of tables and chairs must I use for the children?

Subchapter T, Physical Facilities
Division 4, Furniture and Equipment
September 2003

Medium — Tables and chairs that you use for the children must be safe, easy to clean, and of a height and size appropriate for each age group in care.

§746.4503. Must I provide a cot or mat for each child to sleep or rest on?

Subchapter T, Physical Facilities
Division 4, Furniture and Equipment
September 2003

(a) Yes. You must provide the following:

Medium-High — (1) An individual crib meeting requirements specified in Subchapter H of this chapter (relating to Basic Care Requirements for Infants) for each non-walking child younger than 18 months to sleep or rest in;

Medium — (2) An individual cot, bed, or mat that is waterproof or washable for each walking child through four years to sleep or rest on; and

Medium — (3) Individual arrangements for sleep or rest for children five years and older who are in care for more than five hours per day, or whose individual care needs require a nap or rest time.

Medium — (b) Cots, beds, or mats must be labeled with the child's name. Labeling cots, beds, or mats with a number related to a number assignment map may be used as an alternative.

Medium — (c) Floor mats used for napping must be marked or colored so that the sleeping side can be distinguished from the floor side.

Marking mats helps to ensure the sleeping side is always used for sleeping and protects the health of children.

§746.4505. Must I have storage for each child's individual belongings?

Subchapter T, Physical Facilities
Division 4, Furniture and Equipment
September 2003

Medium — Yes. You must have individual lockers, cubicles, separate hooks and shelves, or other adequate storage space for each child's personal belongings. You must clearly label the storage space with the child's name, a photograph of the child, or other symbol the child recognizes as his own.

§746.4507. Must I have a telephone at my child-care center?

Subchapter T, Physical Facilities
Division 4, Furniture and Equipment
September 2003

(a) Yes. You must have:

Medium-High (1) A telephone at your child-care center with a listed telephone number; or

(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 child-care center;

Medium-High (B) Immediately transmit messages regarding children in care to child-care center caregivers; and

Medium-High (C) Make outgoing calls for the child-care center 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.

§746.4509. May I have indoor lofts?

Subchapter T, Physical Facilities
Division 4, Furniture and Equipment
December 2010

Medium (a) Yes, as long as the lofts are designed and used as an extension of the classroom and 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 lofts are used as indoor active play space or equipment, they must comply with minimum standards specified in Subchapter U of this chapter (relating to Indoor and Outdoor Active Play Space and Equipment).

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 U, Indoor and Outdoor Active Play Space and Equipment

Division 1, Minimum Safety Requirements

§746.4601. What minimum safety requirements must my active play equipment meet?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 1, Minimum Safety Requirements
December 2010

Indoor and outdoor active play equipment used both at and away from the child-care center 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 §746.4909 of this title (relating to What are unitary surfacing materials?) and §746.4911 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;

(continued)

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

Medium (11) If you are licensed to provide care for children 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 space or equipment 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 space or equipment that does not meet Licensing standards.

- *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".*

§746.4603. Are there some types of equipment that children must not use?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 1, Minimum Safety Requirements
December 2010

Yes. Children must not use the following types of equipment at or away from the child-care center:

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;

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 free swinging ropes;

Medium-High (5) Multiple occupancy swings, such as teeter-totters, gliders, or chair swings (other than tire swings); or

Medium-High (6) Swinging gates and giant strides.

§746.4605. Are there additional equipment restrictions for children younger than five years of age?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 1, Minimum Safety Requirements
December 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 child-care center:

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 child-care center:

Medium-High (1) Chain or cable walks;

Medium-High (2) Horizontal ladders;

Medium-High (3) Vertical slide poles;

Medium-High (4) Over-head rings; or

Medium-High (5) Parallel bars.

- *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.*
- *Children ages 2 through 5 years have not developed the upper body strength, balance, postural control, and coordination required to successfully and safely play on equipment such as free standing arch climbers and track rides.*

§746.4607. What is the maximum height of the highest designated play surface allowed?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 1, Minimum Safety Requirements
December 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 as follows:

Medium-High (1) 32 inches for equipment designed to be used by children under the age of two years;

Medium-High (2) Five feet for equipment designed to be used by children younger than five; or

Medium-High (3) Seven feet for equipment designed to be used by children who are at least five years of age.

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.

§746.4609. Do the height requirements apply to my child-care center if it was licensed before December 1, 2010?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 1, Minimum Safety Requirements
December 2010

(a) If you were licensed after September 1, 2003, and before December 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:

Medium-High (1) Six feet for equipment designed to be used by children younger than five years of age; or

Medium-High (2) Eight feet for equipment designed to be used by children ages five years and older.

Medium-High (b) A child-care center licensed before December 1, 2010, must comply with the equipment height requirements specified in this division if the center 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.

Division 2, Swings

§746.4701. What are the safety requirements for swings?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 2, Swings
September 2003

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.

> *A composite play structure refers to playscapes, or structures containing equipment for a variety of activities, such as slides, climbing apparatus, bridges, and platforms.*

§746.4703. Are there additional safety requirements for bucket swings designed for tots?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 2, Swings
September 2003

Medium-High Yes. Bucket swings are intended for use by children under four years of age with an adult present to lift and secure the child into the swing. Therefore, the distance between the protective surfacing and the bottom of a bucket swing must be at least 24 inches. This will minimize the likelihood of unsupervised young children climbing into the swing.

> - *Full bucket seats are recommended to provide support on all sides of a child and between his legs.*
> - *The bucket seat materials should not present a strangulation hazard, such as having a rope or chain used as part of the seat.*

§746.4705. Are there additional safety requirements for tire swings or other multi-axis swings?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 2, Swings
September 2003

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, Maintenance

§746.4751. What special maintenance procedures must I follow for my active play space and equipment?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 3, Maintenance
December 2010

Medium-High (a) The child-care center director or designee must inspect the active play space and equipment daily before children begin play to ensure there are no hazards present.

Medium (b) The child-care center 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 child-care center 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 child-care center for review during the center's 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 4, Use Zones

§746.4801. What does Licensing mean by the term "use zone"?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 4, Use Zones
September 2003

Medium-Low 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.

§746.4803. How do I measure the use zone for stationary equipment?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 4, Use Zones
December 2010

Medium 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.

§746.4805. How do I measure the use zone for slides?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 4, Use Zones
September 2003

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.

§746.4807. How do I measure the use zone for to-fro swings?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 4, Use Zones
September 2003

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.

§746.4809. How do I measure the use zone for tire swings?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 4, Use Zones
September 2003

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.

§746.4811. How do I measure the use zone for bucket swings?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 4, Use Zones
September 2003

Medium-High (a) The use zone to the front and rear of the bucket swing for tots 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.

§746.4813. How do I measure the use zone for rotating or rocking equipment?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 4, Use Zones
September 2003

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.

§746.4815. Do the use zone requirements apply to my child-care center if it was licensed before September 1, 2003?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 4, Use Zones
September 2003

(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) A child-care center licensed before September 1, 2003, must comply with the use zone requirements specified in this division, under the following circumstances:

Medium-Low (1) A child-care center 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.

Medium-Low (2) Your existing permit is no longer valid.

Division 5, Surfacing

§746.4901. What type of surfacing must I have under my active play equipment?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 5, Surfacing
December 2010

Medium-High (a) There must be loose-fill surfacing material or unitary surfacing material in the use zones (area around and under equipment where resilient surfacing is needed to prevent serious injury from occurring as result of a fall) 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 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.*

§746.4905. What are acceptable loose-fill surfacing materials?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 5, Surfacing
September 2003

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.

§746.4907. How should outdoor loose-fill surfacing materials be installed?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 5, Surfacing
June 2014

(a) Subject to the requirements in subsection (f) of this section, you must install and maintain loose-fill surfacing materials to a depth of:

Medium-High (1) At least six inches when the height of the highest designated play surface is five feet or less; and

Medium-High (2) At least nine inches when the height of highest designated play surface is greater than five feet.

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.

(continued)

Medium-High (e) Loose-fill surfacing materials must not be used indoors.

Medium-High (f) If you were licensed before December 1, 2010, you only have to maintain at least six inches of loose-fill surfacing materials until December 1, 2015, after which date you must comply with subsection (a)(2) of this section when the height of the highest designated play surface is greater than five feet.

- *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.*
- *The Consumer Product Safety Commission recommends, when using any loose-fill material with the exception of shredded/recycled rubber, to install at least 9 inches since shallower depths are too easily displaced and compacted.*

§746.4909. What are unitary surfacing materials?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 5, Surfacing
September 2003

(no weight) Unitary surfacing materials are manufactured materials including rubber tiles, mats, or poured-in-place materials cured to form a unitary shock-absorbing surface.

§746.4911. How should unitary surfacing materials be installed?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 5, Surfacing
September 2003

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.

§746.4913. What documentation must I keep at the child-care center if I use unitary surfacing materials?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 5, Surfacing
September 2003

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 child-care center and made available for review by parents and Licensing staff upon request during hours of operation.

§746.4915. What additional surfacing requirements must my indoor equipment meet?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 5, Surfacing
December 2010

Medium-High Floor surfaces under indoor-climbing equipment and platforms over 20 inches in height 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 §746.4801 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.

Division 6, Soft Contained Play Equipment

§746.4951. What is soft contained play equipment?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 6, Soft Contained Play Equipment
December 2010

(no weight) Soft contained play equipment is a play structure that:

(1) Is fully enclosed with pliable material such as net, plastic, or fabric;

(2) The user enters to access one or more play components; and

(3) Allows caregivers to supervise children as specified in §746.1205 of this title (relating to What does Licensing mean by "supervise children at all times"?).

§746.4953. Are there additional safety requirements for soft contained play equipment?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 6, Soft Contained Play Equipment
December 2010

Yes, Soft contained play equipment (SCPE) must also:

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 24 inch difference in height between two connecting platforms;

Medium-High (3) Have use zones as outlined in §746.4955 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.

§746.4955. How do I measure the use zone for soft contained play equipment?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 6, Soft Contained Play Equipment
December 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 one foot, which ever is greater.

Division 7, Inflatables

§746.4971. May I use inflatable active play equipment?

Subchapter U, Indoor and Outdoor Active Play Space and Equipment
Division 7, Inflatables
December 2010

Yes, you may use inflatable equipment both at and away from your child-care center as long as it meets the following:

Medium-High (1) Enclosed inflatables (such as bounce houses or moon bounces) are used by one child at a time;

Medium-High (2) Open inflatables (such as obstacle courses, slides, 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 V of this title (relating to Swimming Pools and Wading/Splashing Pools).

Subchapter V, Swimming Pools and Wading/Splashing Pools

§746.5001. What safety precautions must I follow when children in my care use a swimming pool?

Subchapter V, Swimming Pools and Wading/Splashing Pools
September 2003

In addition to complying with the child/caregiver ratios specified in §746.2105 of this title (relating to What are the child/caregiver ratios for swimming activities?) and other safety requirements specified in §746.2109 and §746.2113 of this title (relating to Must a certified lifeguard be on duty when children are swimming in more than two feet of water? and 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 child-care center:

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.

§746.5003. How should the swimming pool be built and maintained?

Subchapter V, Swimming Pools and Wading/Splashing Pools
December 2010

High Swimming pools used both at and away from the child-care center must be built and maintained according to the standards of the Texas Department of State Health Services for public pools and any other applicable state or local regulations.

§746.5005. Do the same safety precautions apply for above-ground pools?

Subchapter V, Swimming Pools and Wading/Splashing Pools
September 2003

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.

§746.5007. Must I have a fence around a swimming pool at my child-care center?

Subchapter V, Swimming Pools and Wading/Splashing Pools
September 2003

High (a) Yes. You must enclose a swimming pool at your child-care center 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 child-care center 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.

§746.5009. Does having a fence relieve me of the duty to supervise children's access to the pool?

Subchapter V, Swimming Pools and Wading/Splashing Pools
September 2003

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.

§746.5013. What are the safety requirements for wading pools?

Subchapter V, Swimming Pools and Wading/Splashing Pools
September 2003

(a) Wading/splashing pools (two feet of water or less) at your child-care center 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 §746.5001 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 child-care center.

Wading/splashing pools with no filtering system are meant to be drained, sanitized, and stored out of children's reach after each use.

§746.5015. Are there specific safety requirements for sprinkler play?

Subchapter V, Swimming Pools and Wading/Splashing Pools
September 2003

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.

§746.5017. Can children in my care swim in a body of water other than a swimming pool, such as a lake, pond, or river?

Subchapter V, Swimming Pools and Wading/Splashing Pools
July 2005

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 W, Fire Safety and Emergency Practices

Division 1, Fire Inspection

§746.5101. Must my child-care center have an annual fire inspection?

Subchapter W, Fire Safety and Emergency Practices
Division 1, Fire Inspection
December 2010

High (a) Your child-care center must have a fire inspection before we issue your initial permit and at least once every 12 months, unless your child-care center is located 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.

§746.5103. How do I document that a fire inspection has been completed?

Subchapter W, Fire Safety and Emergency Practices
Division 1, Fire Inspection
December 2010

Medium-High If required, you must keep a copy of the most recent fire-inspection report, letter, or checklist at the child-care center during hours of operation to verify the inspection date and findings. The report must include the name and telephone number of the inspector.

§746.5105. Must I make all corrections specified in the fire-inspection report?

Subchapter W, Fire Safety and Emergency Practices
Division 1, Fire Inspection
December 2010

High Yes, 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

§746.5201. What is an emergency preparedness plan?

Subchapter W, 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 center 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.

§746.5202. What must my emergency preparedness plan include?

Subchapter W, 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 specific procedures for evacuating and relocating children who are under 24 months of age, who have limited mobility, or who otherwise may need assistance in an emergency, such as children who have mental, visual, or hearing impairments;

(C) The staff responsibility in a sheltering/lock-down emergency for the orderly movement of children to a designated location within the center where children should gather;

(D) An emergency evacuation and relocation diagram as outlined in §746.5207 of this title (relating to Must I have an emergency evacuation and relocation diagram?);

(continued)

(E) Name and address of the alternate shelter away from the center 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 the 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 American Academy of Pediatrics (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.*

§746.5204. Who must coordinate the implementation of an emergency preparedness plan?

Subchapter W, Fire Safety and Emergency Practices
Division 2, Emergency Preparedness
December 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.

§746.5205. Must I practice my emergency preparedness plan?

Subchapter W, Fire Safety and Emergency Practices
Division 2, Emergency Preparedness
September 2016

Yes, the following components of your center'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.

§746.5207. Must I have an emergency evacuation and relocation diagram?

Subchapter W, 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 child-care center and must show the following:

Medium-High (1) A floor plan of your child-care center;

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 child-care center where all caregivers and children meet to ensure everyone has exited the child-care center safely; and

Medium-High (4) The designated location inside the child-care center 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 diagram near the entrance and/or exit of the room and where children and employees may easily view the diagram.

§746.5209. How many exits must my child-care center have?

Subchapter W, Fire Safety and Emergency Practices
Division 2, Emergency Preparedness
September 2003

Medium-High (a) The child-care center 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.

§746.5211. Must I have emergency lighting in case of an emergency evacuation?

Subchapter W, Fire Safety and Emergency Practices
Division 2, Emergency Preparedness
September 2003

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

§746.5301. Must my child-care center have a fire-extinguishing system?

Subchapter W, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
December 2010

High Your child-care center must have a fire-extinguishing system. This may be a sprinkler system and/or fire extinguishers. If your center is located in a public school facility operated by the local independent school district, the fire-extinguishing system utilized by the school complies with this standard.

§746.5303. Who must approve my fire-extinguishing system?

Subchapter W, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2003

Medium-High The state or local fire marshal must approve a sprinkler system and/or fire extinguishers in your child-care center. If an inspection is not available, you must have at least one fire extinguisher rated 3A-40BC in the child-care center.

§746.5305. Where must I mount fire extinguishers?

Subchapter W, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2003

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 center 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.*

§746.5307. How often must I inspect and service the fire extinguisher(s)?

Subchapter W, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2003

Medium-High (a) The director or designee must inspect them 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.

§746.5309. How often must I inspect a sprinkler system?

Subchapter W, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2003

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 child-care center for review during hours of operation. The documentation must indicate the date of the inspection and the inspector's name and telephone number.

§746.5311. Must my child-care center have a smoke-detection system?

Subchapter W, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
December 2010

High (a) Your child-care center 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.

(no weight) (b) If your center is located in a public school operated by the local independent school district, the smoke detection system utilized by the school complies with this standard.

§746.5313. Who must approve my child-care center's smoke-detection system?

Subchapter W, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2003

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.

§746.5315. How often must I have an electronic smoke alarm system tested?

Subchapter W, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2003

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 child-care center for review during hours of operation. The documentation must indicate the date of the inspection and the inspector's name and telephone number.

§746.5317. How must smoke detectors be installed at my child-care center?

Subchapter W, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2003

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.

§746.5319. How often must the smoke detectors at my child-care center be tested?

Subchapter W, Fire Safety and Emergency Practices
Division 3, Fire Extinguishing and Smoke Detection Systems
September 2003

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 center for review during hours of operation.

A monthly test of smoke detectors is easily handled by center 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

§746.5401. Must my child-care center be inspected for gas leaks?

Subchapter W, Fire Safety and Emergency Practices
Division 4, Gas and Propane Tanks
December 2010

Medium-High

If your child-care center uses natural or liquid propane (LP) gas, your child-care center must be inspected for gas leaks before we issue your initial permit, and once every two years after your permit is issued, unless your child-care center is located in a public school building operated by the local independent school district.

§746.5403. Who must conduct the inspection for gas leaks?

Subchapter W, Fire Safety and Emergency Practices
Division 4, Gas and Propane Tanks
July 2005

Medium-High

(a) If your child-care center uses natural gas, you must have your child-care center inspected for gas leaks by a licensed plumber or a gas company official.

Medium-High

(b) If your child-care center 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.

§746.5405. How do I document that a gas leak inspection has been completed?

Subchapter W, Fire Safety and Emergency Practices
Division 4, Gas and Propane Tanks
September 2003

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 child-care center.

§746.5407. Must I make all corrections specified in the gas inspection report?

Subchapter W, Fire Safety and Emergency Practices
Division 4, Gas and Propane Tanks
September 2003

High

Yes. 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

§746.5501. What steps must I take to ensure that heating devices do not present hazards to children?

Subchapter W, Fire Safety and Emergency Practices
Division 5, Heating Devices
September 2003

High (a) Gas appliances must have metal tubing and connections, be in good repair, and 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 do 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

§746.5531. Must my child-care center have a carbon monoxide detection system?

Subchapter W, Fire Safety and Emergency Practices
Division 6, Carbon Monoxide Detection Systems
January 2004

High — Your child-care center must be equipped with a working carbon monoxide detection system, unless it is located in a school facility that complies:

(1) With the school facility standards adopted by the commissioner of education under the Education Code, §46.008; or

(2) With standards adopted by the board of a local school district that are similar to those described in paragraph (1) of this section.

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 do not have a sufficient source of combustion air. Carbon-containing fuel that is not burned completely can cause asphyxiation.

§746.5533. What type of carbon monoxide detection system must I install?

Subchapter W, Fire Safety and Emergency Practices
Division 6, Carbon Monoxide Detection Systems
January 2004

Medium-High — You must install:

(1) Individual electric (plug-in or hardwire) or battery-operated carbon monoxide detectors that meet Underwriters Laboratories Inc. requirements (UL-Listed); or

(2) An electronic carbon monoxide detection system connected to an electronic alarm/smoke detection system that is UL-Listed.

§746.5535. How many carbon monoxide detectors must be installed in my child-care center?

Subchapter W, Fire Safety and Emergency Practices
Division 6, Carbon Monoxide Detection Systems
January 2004

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.

§746.5537. How often must I inspect and service the carbon monoxide detection system?

Subchapter W, Fire Safety and Emergency Practices
Division 6, Carbon Monoxide Detection Systems
January 2004

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 the test, date of installation of new batteries, and the name of the employee who does the testing and installment of new batteries; and

Medium-High (4) Keep this documentation at the center for review during 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 child-care center for review during 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 X, Transportation

§746.5601. What types of transportation does Licensing regulate?

Subchapter X, Transportation
September 2003

(no weight) We regulate any transportation provided by or for the child-care center, including but not limited to, transportation between home and school, between school and the child-care center, the child-care center and home, the child-care center or school and field trip locations or other drop off locations, authorized by the parent.

§746.5603. What type of vehicle may I use to transport children?

Subchapter X, Transportation
December 2010

(no weight) (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.

(no weight) (b) For the purpose of this chapter, we categorize vehicle types as:

(1) General purpose vehicle – a 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.

§746.5605. What safety precautions must I take when loading and unloading children from the vehicle?

Subchapter X, Transportation
December 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.

High (4) You must never leave a child unattended in a vehicle.

(continued)

There are several things your program may do to ensure all children are accounted for when exiting a vehicle:

- *Use the list of children to verify each child by name*
- *Walk and check the inside of the vehicle, both in and under each seat*
- *Have a second person check the vehicle*
- *Have a visual reminder such as a sticker, keychain, hangtag that helps you do the walkthrough*
- *There are products that you may purchase and install that makes a noise when the vehicle is turned off and until you hit the off button at the back of the vehicle.*

§746.5607. What child safety restraint system must I use when I transport children?

Subchapter X, Transportation
December 2010

Medium-High (a) You must secure each child in an infant safety seat, 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.

High (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:

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…
(1) Younger than 12 months and weighs 20 pounds or less	All vehicles	An infant only rear-facing child safety seat or rear-facing convertible child safety seat according to manufacturer's instructions;
(2) Younger than 12 months and weighs more than 20 pounds	All vehicles	An infant only rear-facing child safety seat or rear-facing convertible child safety seat according to manufacturer's instructions;
(3) 12 months through 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;

(continued)

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…**
(4) Four years of age and weighs 40 pounds or less	(A) General purpose vehicle and small school bus	A forward-facing child safety seat, safety vest or harness according to the manufacturer's instructions;
(4) Four years of age and weighs 40 pounds or less	(B) Large school bus	A safety restraint system according to vehicle manufacturer's instruction;
(5) 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	A forward-facing child safety seat, booster seat, safety vest or harness according to the manufacturer's instructions;
(5) 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	(B) Small school bus	A properly fitting safety belt anywhere the child sits in the vehicle;
(5) 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	(C) Large school bus	A safety restraint system according to vehicle manufacturer's instruction;
(6) Four years through seven years of age and four feet, nine inches in height or taller	(A) General purpose vehicle	A booster seat according to the manufacturer's instructions or a properly fitting safety belt anywhere the child sits in the vehicle;
(6) Four years through seven years of age and four feet, nine inches in height or taller	(B) Small school bus	A properly fitting safety belt anywhere the child sits in the vehicle;
(6) Four years through seven years of age and four feet, nine inches in height or taller	(C) Large school bus	A safety restraint system according to vehicle manufacturer's instruction;
(7) Eight years through 14 years of age	(A) General purpose vehicle and small school bus	A properly fitting safety belt anywhere the child sits in the vehicle;
(7) Eight years through 14 years of age	(B) Large school bus	A safety restraint system according to vehicle manufacturer's instruction.

§746.5609. Must caregivers and/or the driver wear a safety belt?

Subchapter X, Transportation
December 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.

§746.5611. May parents provide the safety seat equipment required for their child?

Subchapter X, Transportation
September 2003

Medium-High Yes. 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 American Academy of Pediatrics (AAP), the best car 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.

§746.5613. May I place more than one person in each safety belt?

Subchapter X, Transportation
September 2003

Medium-High No. Only one person may use each safety belt.

§746.5615. May a child ride in a safety belt with a shoulder harness?

Subchapter X, Transportation
September 2003

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.

§746.5617. Must I carry specific equipment in vehicles used to transport children in my care?

Subchapter X, Transportation
September 2003

(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 child-care center's name, child-care center director or permit holder's name, and child-care center telephone number in the glove compartment or clearly visible inside the passenger compartment, or the child-care center'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 §746.4003 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.*

§746.5619. Must I have a plan to handle transportation emergencies?

Subchapter X, Transportation
September 2003

Medium-High Yes. 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 child-care center must know what action to take in responding to a transportation emergency call.

§746.5621. Must I have a communications device in the vehicle?

Subchapter X, Transportation
September 2003

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 child-care center that knows the routine arrival and departure times of the vehicle and takes action if the vehicle does not return to the child-care center at a scheduled time. The driver must travel a known fixed route within an approximate timeframe.

§746.5623. What is an electronic child safety alarm?

Subchapter X, Transportation
March 2014

(no weight) An electronic child safety alarm is an alarm system installed in a vehicle. The alarm prompts the driver of a vehicle to inspect the vehicle to determine whether children are in the vehicle before the driver exits the vehicle.

§746.5625. When and how must I install and use an electronic child safety alarm in a vehicle?

Subchapter X, Transportation
March 2014

High (a) You must ensure that a vehicle purchased or leased on or after December 31, 2013, is equipped with an electronic child safety alarm if:

(1) The vehicle is designed to seat eight or more persons; and

(2) Your operation uses the vehicle to transport children in care.

High (b) You are responsible for ensuring that the alarm is installed and maintained according to the manufacturer's instructions.

High (c) The alarm must be used at all times whenever a vehicle describe in subsection (a) of this section is used to transport a child in care.

§746.5627. What documentation must I keep at the child-care center for each vehicle used to transport children in care?

Subchapter X, Transportation
March 2014

Medium You must keep documentation at your child-care center that shows when your center first purchased or leased a vehicle unless it:

(1) Is equipped with an electronic child safety alarm; or

(2) Is not designed to seat eight or more persons.

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.

(continued)

(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 §746.3611.

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.
- 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).

(continued)

- 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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