INTRODUCTION.

(1) Purpose Of Licensing. The primary purpose of licensing is the protection of children. Minimum requirements seek to maintain adequate health, safety, and supervision of children while in a group care setting. Developmental (comprehensive) child care provides appropriate educational experiences, health services, and social services to children and their families.

(2) Types Of Agencies. Child care services may be offered by family day care homes, group day care homes, day care or child development centers, nursery schools, day nurseries, and kindergartens as well as schools or agencies providing before and after school care. Regardless of name, purpose, or auspices, all are subject to licensure unless exempt by law. (See specific definitions below.)

(3) General Standards And Requirements.

(a) Issuance of a license is based on achievement in meeting and maintaining compliance with minimum standards, or requirements, set forth in these rules. The license applies only to the agency, organization, or person(s) to which or to whom it is issued and only to the building and premises approved for the operation of the child welfare agency. In addition to state licensing requirements, it is the responsibility of the applicant/licensee to comply with all applicable local ordinances, including zoning ordinances and business tax licenses or other locally required permits.

(b) A day care home must comply with all requirements in these rules to receive an annual license. In addition to fire safety and environmental sanitation approval, the applicant must demonstrate good faith intent to comply with these rules before a conditional license may be issued. Failure to meet such requirements, or to demonstrate good intention in meeting them in the case of a conditional license, shall constitute grounds for denial of a license or for revocation of a license already issued.

(c) Appendices to these rules which contain fire safety, health, environmental sanitation regulations, summaries of applicable laws, and other information are incorporated herein by reference.

(4) Legal Basis For Licensing. TCA §71-3-501 et seq. provide for defining, inspection, licensing, and regulation of child welfare agencies including day care homes. (See Appendix A for summary of applicable laws.) The Tennessee Department of Human Services has responsibility for licensing all such agencies offering child care to groups of children.

(5) Definitions. For the purpose of this Chapter, the following definitions are applicable:

(a) Annual License. An annual permit issued by the Department to a child welfare agency or to a child care system central operator, authorizing the licensee to provide child care in accordance with provisions of the license, the law, and requirements (rules) of the Department. Issuance of a license is not an endorsement of child care methods or of an agency’s operational philosophy. A license is not transferable from one location to another or from one licensee/operator to another.
(b) Approved Day Care Home. An approved day care home is a day care home which is related through contractual or employment arrangements to a central operator. The approved day care home must meet the same requirements and must have been evaluated by the central operator in the same manner as an individual licensed day care home.

(c) Caregiver(s). Any person who provides all or part of the care of a group of children, including the primary caregiver.

(d) Central Operator. The individual(s), or the corporation, partnership, cooperative, or other private or public entity of any kind, who or which, through their authorized representative(s), in addition to other activities, if any, owns, administers or operates a child care system. The central operator shall have ultimate responsibility for the administration/operation of any or all day care homes and child care centers in the system and shall, together with the primary caregiver, sign the application for a license. The central operator shall be the licensee.

(e) Child. A person under 17 years of age.

(f) Child Care. The wide variety of arrangements made by parents (or guardians) for the care outside of their home of children under 17 years of age, for less than 24-hour periods without transfer of custody.

(g) Child Care System. The existence of any day care homes approved or licensed and used by a licensed and incorporated day care agency or a licensed child-placing agency in its work; or the existence of two (2) or more facilities used for day care purposes which facilities are under the ownership, administration or control of any individual(s), corporation, partnership, cooperative, or other public or private entity of any kind.

(h) Commissioner. The executive head of the Department of Human Services, appointed by the Governor.

(i) Conditional License. A permit issued by the Department to a new child welfare agency or to a new child care system central operator, permitting and authorizing the licensee to begin child care operations. It is valid for 90 days and is issued upon application by the operator only if the staff and facility do not present any apparent hazards to the children that may be in care and only if the facility has received fire safety and environmental sanitation approval. If, at the end of the 90-day period, evidence is provided by the applicant/licensee that such child welfare agency is suitable and properly managed and that the agency is in compliance with these rules, the Department will issue an annual license to the child welfare agency.

(j) Day Care. Synonymous with definition of child care, above.

(k) Department (DHS). The Tennessee Department of Human Services and its representatives.

(l) Family Day Care Home. A home (an occupied residence) operated by a person for the purpose of receiving therein a minimum of five and a maximum of seven children under 17 years of age, who are not related to such person and whose parent(s) or guardian(s) are not residents in the same house, for less than 24 hours per day for care, without transfer of legal custody.

Current through rules effective April 2014.
(m) Group Day Care Home. Any facility operated by a person, social agency, corporation or institution, or any other group which receives a minimum of eight and a maximum of 12 children (and up to three additional school-age children who will only be present before and after school, on school holidays, on school snow days, and during school summer vacation) for less than 24 hours per day for care outside their own homes, without transfer of legal custody. Before a group day care home opens, fire safety and environmental inspectors must approve the facility.

(n) High School Diploma. As used in the context of caregivers’ qualifications, refers to a document recognizing graduation from an accredited institution, public or private, based on the issuing state’s required number of academic credits, including passing a GED test. As used in this Chapter, a certificate or statement of attendance or similar document, or correspondence or video courses, do not qualify as or for a high school diploma.

(o) Infant. A child who is six weeks through 15 months of age.

(p) Law. The licensing law as contained in TCA §§71-3-501 through 71-3-531, and related statutes or other referenced statutes or regulations.

(q) Licensee. The person(s), agency(ies), or central operator to whom a license is issued and who must assume ultimate responsibility for a day care home or homes. In a single-site home, the licensee is the primary caregiver. In a child care system of approved homes, the central operator is the licensee. (The term as used herein also refers to an agency.)

(r) Parent. A biological or adoptive parent, guardian, or custodian who has primary responsibility for a child.

(s) Preschool Child. A person who is 31 months through five years of age. The term includes infants and toddlers.

(t) Primary Caregiver. The adult who is responsible for direct care and supervision of children in a day care home and for the daily operation of a home. In a group day care home which is not operated by a central operator, the primary caregiver is the licensee. Duties may include hiring, training, and supervision of other caregivers.

(u) School-age Child. A person who is five years of age and in kindergarten or older (refers to kindergarten through grade six).

(v) Staff. Full and part-time caregivers, employees, and volunteers, if any.

(w) Substitute. Paid or unpaid persons who are replacement for regular staff. The names, addresses, telephone numbers and dates of service shall be recorded for all substitutes in the staff personnel records of the home. Substitutes providing services for thirty-six (36) hours or more in a calendar year are required to have a criminal background check pursuant to 1240-04-01-.03(1)(a)6 and shall meet the same requirements for regular staff for physical examinations as required by 1240-04-01-.06(3); provided, however, for purposes of 1240-04-01-.03(1)(a)6, persons serving temporarily as caregivers in field service placements as part of an educational course of study or other curriculum requirement shall not be considered as substitutes.
for purposes of this rule.

(x) Toddler. A child who is 16 months through 30 months of age.

(y) Volunteer. A person who provides services for a child care agency without payment and who is used to supplement regular staff or substitutes. The volunteer shall not be used to meet classroom adult:child ratios. The names, addresses, telephone numbers and dates of service for all volunteers shall be recorded in the staff personnel records of the home.

(6) Procedures For Getting A License.

(a) The Department offers one prelicensure consultation session. When an individual or group is giving consideration to opening a child care service/business, the local county office of the Tennessee Department of Human Services should be contacted. The individual or group will be given the name of a licensing representative who will serve as their consultant.

(b) The Department will offer prelicensure training to prospective providers of day care. Interested persons or groups should contact a licensing representative to determine the date of the next meeting in their area.

(c) The licensing representative will inform the interested individuals or entity of the appropriate time to apply for a license. The group day care home application fee is $10.

(d) Upon satisfaction of the following minimum requirements, a conditional license may be issued:

1. Primary caregiver’s qualifications meet the requirements (see Chapter 1240-04-01-03);

2. Three satisfactory references for the primary caregiver are verified;

3. Physical facilities receive fire safety and environmental approval; and

4. If staff and facility do not present any apparent hazards to the children who may be in care.

(e) Receipt of an application begins the evaluation process which is completed with the issuance or denial of an annual license. This process includes:

1. At least two visits to the day care home, one of which is unannounced;

2. Observation of caregivers’ interaction with children;

3. Review of agency records;

Current through rules effective April 2014.
4. Request for written and oral information related to licensure requirements; and

5. Use of an evaluation checklist, itemizing requirements and noting compliance or noncompliance, a copy of which is left with the applicant.

(f) Upon issuance of an annual license, the licensee is expected to maintain compliance with requirements throughout the year.

(g) Near the end of a licensing term, the licensee will be notified by mail of a scheduled reevaluation for a new license. Application for a renewed license must be made prior to the expiration of the existing license. The reevaluation process is similar to the initial evaluation, but agencies receiving two consecutive annual licenses are rewarded with a shorter, less involved reevaluation and/or fewer reevaluations. A home accredited by the National Association for Family Day Care (NAFDC) may be reevaluated every three years. (See Appendix A for further information regarding the licensing process.)

(7) Licensing Action And Appeal Rights. Procedures for applications, suspensions, denials, revocations of licenses and appeal rights are governed by Chapter 1240-5-11.

(8) Grace Period. Because the amount of in-service training required has been increased, new agencies and new primary caregivers will be granted a reasonable grace period if needed to obtain the required hours of training.

(9) Investigations Of Child Abuse And Neglect; Custodial Authority Of Children.

(a) A child care provider is required by law to cooperate with the Department and other investigators by reporting any suspected child abuse and neglect to the Department. The child care provider must further cooperate by providing access to the records of children and staff and by allowing investigators to interview children and staff.

(b) A child care provider should protect the child by requesting the investigator’s identification and by knowing who is entitled to custody of the child. An investigator may take a child off of the premises of the agency if he/she has obtained custody of the child through voluntary placement agreement with the parent, through court order or through emergency assumption of custody under TCA §37-1-113 without parental permission or if the child’s parent or legal guardian is present and approves, or in conjunction with investigative procedures under the child abuse laws.

(c) Child care providers do not have a right to be present during interviews with staff or children or to receive information or results of the interviews or investigations concerning child abuse or neglect unless directly related to efforts to enforce the child abuse or licensing laws.
(1) Ownership/Sponsorship.

(a) The licensee of a single-site group day care home shall be the primary caregiver.

(b) In a child care system, an adult person or persons shall be designated as having ultimate responsibility for the administration/operation of any or all day care home(s) in the system. Such person(s) shall be known as the central operator. The central operator and a primary caregiver shall sign an application for a license for each home sponsored (unless sponsoring agency is classified public).

(c) The name, address, and phone number of an applicant, central operator, and all primary caregivers shall be made known to the Department of Human Services and to parents of children enrolled in the home(s) and become public record.

(d) The applicant/licensee shall notify DHS before changing location of a group day care home.

(e) The primary caregiver shall assume responsibility for daily operation of a day care home and shall meet specified qualifications prior to licensure. (See Rule 1240-04-01-.03.)

(f) Day care agencies sharing common land shall be located in separate facilities and shall not share equipment or facilities with the exception of outdoor equipment and play area, which shall be used by children from one agency at a given time.

(2) Policies.

(a) A new primary caregiver shall complete in the presence of the Licensing Counselor the “Checklist of Services” or write out a Statement of Purpose.

(b) A group child care home shall have written policies concerning

1. Services offered;

2. Provision for children’s individual needs;

3. The home’s admission policies and enrollment procedures;

4. Fees charged (if applicable) and plan for payment;

5. Handling of children’s personal belongings; and

6. If the agency provides transportation for children in the agency’s care, the written statement required by 1240-04-01-.07(1)(a) describing transportation plans, procedures and equipment utilized in the
transportation process and parental permission for trips away from facility.

(c) A policy statement signed by both the primary caregiver and the parent shall be given to the parent, and a signed copy or other documentation that parent received a copy shall be kept on file.

(3) Enrollment of Children and Parent Involvement

(a) Children shall be at least six weeks of age before entering day care.

(b) Prior to admission of children, the parent shall submit a completed information (application) form and current health record. [See 4(e) below and Chapter 1240-04-01-.06.]

(c) A copy of “Summary of Licensing Requirements” (furnished by the Department) shall be given to the parent(s) of each child enrolled.

(d) During normal hours of operation, parents shall be permitted access to their children, and ready access to all licensed areas of the home and premises shall be granted to Department representatives and inspection authorities (i.e., fire safety, sanitation, and health).

(e) Parents must be informed in advance of the child’s removal from the premises except in cases of emergencies or pursuant to investigative procedures conducted pursuant to the child abuse laws.

(4) Records.

The following records shall be kept and shall be available to the Department:

(a) An annual operating budget (actual or projected), which includes a statement of income and expenditures. Adequate financing of the day care operation shall be maintained.

(b) Staff records including:

1. Recommendations from three nonrelated references on each applicant and caregiver. The central operator’s/primary caregiver’s reference information shall be given to the licensing counselor;

2. Training received during the year for each caregiver;

3. Reserved;

4. Adult health records.
(c) Children’s health records.

(d) Daily attendance records on children; on staff if more than one caregiver.

(e) A record on each child which includes the following information:

1. Name, date of birth, name of parent(s), home address, business address and telephone, work hours, child’s background information, transportation plan, and the names of persons allowed to pick the child up.

2. The following information shall be kept where it can be found quickly in an emergency: The name, address, and telephone number of the person parents wish to be called if they cannot be reached. The name, address, and telephone number of a doctor to call in an emergency; written permission of parent authorizing emergency medical care.

3. A written plan of how the primary caregiver intends to communicate daily with parents of every child below 31 months of age.

(f) Children’s records shall be kept for one year following the child leaving the agency.

(5) Right to Privacy/Confidentiality. The licensee and caregivers shall not disclose or knowingly permit the use of by other persons any information concerning a child or family except as required by law or regulation.

(6) Posting of License. During the hours of operation, an up-to-date license to operate a group day care home shall be posted near the main entrance where anyone entering may see it.

(7) Liability and Medical Payment Insurance Coverage.

(a) General liability, automobile liability and medical payment insurance coverage shall be maintained on the vehicles owned, operated or leased by the child care agency and on the operations of the child care agency’s facilities.

(b) Automobile liability coverage shall be maintained in a minimum amount of Three Hundred Thousand Dollars ($300,000) combined single limit of liability. The requirement of this subparagraph only applies to child care programs that transport children.

(c) General liability coverage on the operations of the child care agency facilities shall be maintained in a minimum amount of Three Hundred Thousand Dollars ($300,000) per occurrence and Three Hundred Thousand Dollars ($300,000) general aggregate coverage, or Three Hundred Thousand Dollars ($300,000) per occurrence.

(d) Medical payment coverage, as the primary coverage, shall be maintained in the minimum amount of Five Thousand Dollars ($5,000) for injuries to children being transported in vehicles owned, operated or leased by
the child care agency under subparagraph (b), and in the minimum amount of Five Thousand Dollars ($5,000), for injuries to children resulting from the operation of the child care agency under subparagraph (c).

(e) The requirements of this paragraph shall not apply to an agency that is under the direct management of a self-insured administrative department of the state, a county or a municipality or any combination of those three (3) or that has, or whose parent entity has, a self-insurance program that provides, as determined by the Department, the coverages and the liability limits required by these rules.

(f) Documentation that the necessary insurance is in effect, or that the administrative department or other entity is self-insured, shall be maintained in the records of the child care agency and shall be available for review by the Department’s licensing staff.

(i) Drug Screening for Child Care Vehicle Drivers Upon Reasonable Cause.

(I) The Department, in its sole discretion, may require any individual, who drives or may drive at any time any vehicle transporting children on behalf of the agency or its contractors, to undergo a drug screening test when, in the Department’s sole determination, there is reasonable cause to believe that such individual may have an impairment or possible impairment that potentially poses a risk of harm to children in the care of the agency caused by the use, or possession and potential use, of any drug. For purposes of this part, the term “drug” shall include alcohol.

(II) An individual directed to undergo such examinations or screenings may refuse to do so, but will not be permitted to drive a vehicle transporting children in the agency or have any further contact with children in the care of the child care agency until evidence is provided that is satisfactory, in the Department’s discretion, to demonstrate that the individual does not represent a risk of harm to the children in the agency’s care.

(ii) Safety Plans.

(I) The Department may require, in its sole discretion, the child care agency to enter into a safety plan approved by the Department that prohibits or limits such individual’s contact with children in the care of the child care agency pending the outcome of such testing.

Current through rules effective April 2014.
(II) The Department may otherwise require, in its sole discretion, that the child care agency enter into a long-term or permanent safety plan that prohibits or limits the driving duties by an individual described in part 1 for, or contact by such individual with, children in the care of the agency.

(III) Failure to adhere to the safety plan shall be grounds for action by the Department against the child care agency’s license as permitted by T.C.A. § 71-3-508(c).

(IV) The child care agency, or any individual whose employment status is directly and adversely impacted by a safety plan or by refusal to undergo an examination as directed by the Department may, at any time during the existence of the plan or during the pendency of the directive for an examination, make written request to the Director of Licensing for an intradepartmental review of the safety plan. Such review shall be conducted by the Director or the Director’s designee within ten (10) business days of receipt of the written request.

(V) Any individual or child care agency that has received an adverse decision from the intradepartmental review set forth in subpart (IV) above, may appeal such safety plan to the Department by filing a written request for an administrative hearing before the Department’s Administrative Procedures Division within ten (10) business days of the Director’s decision. The hearing shall be held by the Division within twenty (20) business days of the receipt of the request for an administrative hearing.

(VI) Any safety plan that exceeds ninety (90) days when proposed or that continues for more than ninety (90) days may be appealed by the child care agency to the Child Care Agency Board of Review.

2. A person who has a physical, mental, or emotional condition which is in any way harmful to children shall not be present with the children.

3. To be counted in the caregiver to child ratio, caregivers shall be at least 16 years of age and able to read and write, and must be supervised by an adult.

4. Caregivers shall be of suitable character to work with young children.

5. Reserved.

6. Criminal history and abuse registry background checks; appeals; exemptions.

   (i) Each person:

   (I) Applying to work with children as a paid employee, a director, or manager of a child care agency;

   (II) Applying to work as a new substitute in a child care agency;

Current through rules effective April 2014.
(III) Who applies for a license for, or who otherwise seeks to operate (an “operator”) a child care agency as defined in TCA §§ 71-3-501 et seq. and who has significant contact with children in the course of the role of operator. For purposes of this subparagraph, an “operator” shall be an individual who is an owner or administrator of a child care agency or a child care system; or

(IV) Fifteen (15) years of age or older who resides in a child care agency or who moves into a child care agency following initial licensure shall:

I. Complete a criminal history disclosure form as approved by the Department;

II. Supply a fingerprint sample in a manner prescribed by the Tennessee Bureau of Investigation in accordance with procedures established by the Department, and shall submit to a fingerprint based criminal history check to be conducted by the Department and the Tennessee Bureau of Investigation in accordance with procedures established by the Department;

III. Submit to a review of their status on the Department of Health’s vulnerable persons registry under Title 68, Chapter 11, Part 10 of the Tennessee Code Annotated.

IV. Agree to release all records relating to his or her criminal history to the child care agency and to the Department so that the criminal history information can be verified.

(ii) The entity that is seeking to employ the person or use the person as a substitute, or which has the person residing in the agency, or the licensee or operator of a child care agency, shall be responsible for obtaining, and submitting the fingerprint sample and any information necessary to process the criminal history review, in such manner as may be required by the Department, to the Tennessee Bureau of Investigation within ten (10) days of the first day of beginning employment or substitute status, or within ten (10) days of the license application or seeking operator status, or, within ten (10) days of the application for an initial license for a facility in which the person resides or within ten (10) days after the resident moves into the child care facility.

(iii) The child care agency shall be responsible for all costs associated with obtaining, handling and processing of the fingerprint sample which is submitted to the Tennessee Bureau of Investigation. The Department of Human Services will pay for the costs of processing the criminal records background check with the Tennessee Bureau of Investigation using the applicant’s fingerprint sample. The Department shall only pay for one (1) processing fee that is required by the Tennessee Bureau of Investigation. If the fingerprint sample is rejected, and further costs are required to process the fingerprint, the child care agency is responsible for any further costs, regardless of the number of efforts required to obtain a valid fingerprint sample.

(iv) Pending outcome of the fingerprint background check and the Department of Health’s vulnerable person’s registry the applicant for employment, for a license or for operator or for a substitute position shall be conditional and shall be dependent upon the background check. No person whose criminal history disclosure form describes a criminal history or other activities within the prohibitions of subpart (vii) shall be permitted to be employed as a caregiver, a substitute, director, nor may such person be allowed to be a licensee, or an operator who has significant contact with the children in the agency’s care, nor shall such person be permitted to reside in or otherwise have access to children in the child care facility while children are present.

Current through rules effective April 2014.
(v) A copy of the disclosure form and the results of the criminal history check and the results of the inquiry to the Department of Health’s vulnerable persons registry shall be maintained in the child care agency’s records for review by the Department of Human Services.

(vi) The child care agency shall immediately review the report of the background check received from the Department and the Tennessee Bureau of Investigation, and shall immediately consult with the Department to resolve any questions relative to the person’s status. Upon determination that the person’s status prohibits the person from having access to children as described in subpart (vii), the child care agency shall immediately exclude such person from access to children. Failure to exclude the person under this part or subpart (iv) will result in immediate suspension of the child care agency’s license.

(vii) Exclusions from access to children based upon criminal history or other status.

(I) No person shall be employed, or otherwise act, as a caregiver or as a substitute caregiver for children in a child care agency, nor shall any person be a licensee, director, or be an operator who has significant contact with children in a child care agency, nor shall a person who is a resident in a child care agency have access to or contact with children in a child care agency, nor shall any other person have any access to children in a child care agency whatsoever, who:

I. has any pending warrant, indictment or presentment;

II. has been convicted, pled guilty to or pled no contest to any crime or charge, or

III. has any pending juvenile proceeding or previous juvenile finding which, if an adult, would result in any crime or charge, involving:

A. Any crime, including a lesser included offense derived from any crime involving the physical, sexual, or emotional abuse or gross neglect of a child or any other crimes involving a threat to the health, safety or welfare of a child; or

B. Any crime of violence, including a lesser included offense derived from a crime of violence against another person; or

C. Any crime involving, or lesser included offenses derived from any crime involving, the manufacture, sale, distribution or possession of any drug; or

D. A violation of TCA §§ 39-13-213; 55-10-101; 55-10-102 or 55-10-401 or any felony involving use of a motor vehicle while under the influence of any intoxicant. Such persons under this subitem may not for a period of five (5) years from the date of the conviction or guilty plea be employed or serve as a driver transporting children for a child care agency.

IV. Is listed on the abuse registry maintained by the Department of Health pursuant to Title 68, Chapter
V. Known to the management or licensee of a child care agency as a perpetrator of child abuse or child sexual abuse or who is identified to the child care agency’s management or licensee by the Department of Human Services or by the Department of Children’s Services as a validated or indicated perpetrator of abuse of a child based upon an investigation conducted by the Department of Children’s Services or by the child protective services agency of any other state; and

A. who is associated in providing care or ancillary services in any manner within a child care agency; or

B. who is a family member or other person residing at the child care agency’s facility(ies) or adjacent residence of the caregiver; or

C. who has unrestricted access to children in the child care agency as determined by the Department of Human Services.

(II) An employee or volunteer who has been identified by the Department as having neglected a child based on an investigation conducted by the Department of Children’s Services, or any child protective services agency of any state, and who has not been criminally charged or convicted or pled guilty as stated above, shall be supervised by another adult while providing care for children.

(viii) Appeals of exclusions.

(1) Any person who is excluded or whose license or operator status is denied based upon the results of the criminal history background review may appeal the exclusion or denial to the Department within ten (10) days of the mailing date of the notice of such exclusion or denial to the subject person.

(II) If timely appealed, the Department shall provide an administrative hearing pursuant to Title 4, Chapter 5, Part 3 of the Tennessee Code Annotated in which the appellant may challenge the accuracy of the report, and may challenge the failure to grant an exception to the exclusion or denial required by this subsection if a rule for such purpose has been promulgated by the Department pursuant to subpart (ix).

(III) The appellant may not collaterally attack the factual basis of an underlying conviction except to show that he/she is not the person identified on the record. Further, except to show that he/she is not the person identified in the record, the appellant may not collaterally attack or litigate the facts which are the basis of a reported pending criminal or juvenile charge except to show that such charge was, or since the report was generated, has been dismissed, nolled or has resulted in an acquittal.

(ix) Exemptions from exclusions.

(1) The Department will consider the granting of exemptions from the prohibitions under subpart (vii).

(II) The person seeking the exemption may indicate the request on the disclosure form, or may seek the
exemption by written request to the Commissioner at any time. The request shall state the basis for the request, including any extenuating or mitigating circumstances that would, in the person’s opinion, justify an exemption from the exclusion. Any documentary evidence may also be submitted with the request.

(III) Advisory group to review exemption requests.

I. The Department will establish an advisory group composed, at a minimum, of law enforcement personnel, persons experienced in child protective services, persons experienced in child development issues and child care providers licensed by the Department to review the requested exemption and advise the Department as to whether such request is warranted.

II. At the Department’s request, the advisory group shall review the written request and any other evidence in any other form which it determines necessary to determine the status of the exemption request.

III. Based upon the recommendation of the advisory group, the Department shall make the final determination regarding an exemption. The exemption shall only be granted if the circumstances, as reviewed and determined by the advisory group and the Department, clearly warrant the exemption. The decision will be filed with the child care agency and shall be maintained in the Department's record concerning the agency and shall be open to public inspection.

(IV) Appeal of exemption decision.

I. The Department shall notify in writing the person making the request for exemption of the decision regarding the exemption request and the basis for the decision. A person aggrieved by the Department’s determination may appeal the decision by filing a written request with the Commissioner within ten (10) days of the mailing date of the decision as shown by the date of the notice. If timely appealed, the person shall be granted an administrative hearing under the provisions of TCA §§ 4-5-301 et seq.

II. The appellant may not collaterally attack the factual basis of an underlying conviction except to show that he/she is not the person identified on the record. Further, except to show that he/she is not the person identified on the record, the appellant may not collaterally attack or litigate the facts which are the basis of a reported pending criminal or juvenile charge except to show that such charge was, or since the criminal background history report was generated, has been dismissed, nolled or has resulted in an acquittal.

(x) Alternate and Supplementary Criminal Background Checks.

(I) The Department of Human Services may, at its own expense, utilize background checks pursuant to the provisions of TCA § 71-3-507(g) or (h) to determine the criminal history or other status on the Department of Health’s abuse registry of persons applying to work or who are current employees, licensees, operators or volunteers or current residents of child care agencies or persons working with contractors of the Department who are not otherwise required by the provisions of this subparagraph or any other provisions of law to undergo a criminal history background check. The Department may also utilize the abuse registry of the Department of Health under Title 68, Chapter 11, Part 10 of the Tennessee Code Annotated, for such persons.
(II) The Department may require such individuals to complete a disclosure form as required by subpart (i) and to undergo a fingerprint sample. The Department will submit the form and the fingerprints to the Tennessee Bureau of Investigation for review.

(III) Status Pending Background Check.

I. Pending the outcome of the background check, if required, the applicant for employment or licensee or operator status or for a substitute or volunteer services position, shall be in a conditional status with the child care agency or the Department contractor, and such status shall be dependent upon the outcome of the background check.

II. The employment status of persons for whom a postemployment criminal background check was conducted, or the status of existing licensees or operators, substitutes, volunteers or residents of a child care agency for whom a criminal background check was conducted after license approval, and who were not otherwise subject to a pre-status applicant background check and to the exclusionary provisions provided in this part, shall be governed by any regulations which may govern their status in a regulated entity or by applicable employment law.

(IV) Name Searches.

I. As a further supplemental method of criminal background history review for any applicants for employment, license or operator status, or for substitute or volunteer status with child care agencies, or with the Department or its contractors, as listed in subdivision TCA § 71-3-501(g)(1) or with the entities which the Department may regulate, or for residents of new child care agencies, or for current employees, licensees, operators, substitutes or volunteers of child care agencies or for current residents of child care agencies, the Department may require such persons to submit a disclosure form as set forth in part 1, a copy of which shall be maintained with the Department and shall be filed with the entity with whom such person is associated, and may require such person to agree to release all records involving the person relating the criminal history of such person.

II. The Department may, by agreement with the Tennessee Bureau of Investigation, access the Bureau’s criminal history computer database using only the name of the person and such other person as contained on the disclosure form or such other information as may be available. If the Department determines it to be necessary, then the Department may require fingerprint verification pursuant to items (I) and (II) above.

(V) All provisions of subpart (vii) including, but not limited to, the exclusion of individuals from providing care, from being licensed for the care of children or having access to children upon determination of the criminal background or perpetrator of such individual, the suspension of operations of regulated, certified or approved entities that fail to exclude persons with a criminal background, and the exemptions from the exclusionary provisions shall be applicable to persons having criminal backgrounds or perpetrator status as determined by the processes established by this part.

(VI) Any person disqualified from care for or access to children based upon the results of the criminal history background review under this part may appeal that determination to the Department as provided in subpart (viii).

Current through rules effective April 2014.
(VII) Nothing in this part shall be construed to prevent the exclusion of any individual from providing care for, from being licensed or approved for the care of children pursuant to this part or from having access to a child in a child caring situation if a criminal or juvenile proceeding background or perpetrator status is discovered and verified in any other manner other than through a procedure established pursuant to this chapter. All procedures, rules, and appeal processes established pursuant to this subparagraph for the protection of children and the due process rights of excluded individuals shall also be applicable to such individuals.

(xi) Nothing in this part shall be construed to mean that any other law which mandates that criminal background checks be conducted on applicants for employment, license or operator status, for substitute or volunteer positions or for resident status is made voluntary, repealed or superseded in any manner by the provisions of this subparagraph, and the provisions of subpart (x) are supplementary to, and are not in lieu of any mandatory provisions for such other statutorily required criminal background checks.

7. Reserved.

8. Reserved.

9. All caregivers shall be able to explain emergency procedures to follow in case of fire, serious injury or illness of a child or a caregiver, or disaster.

10. All caregivers shall have training in detection, reporting, and prevention of child abuse.

11. All caregivers shall have a minimum of two hours training annually, in addition to other required training in specific subject areas.

(b) Primary Caregiver.

1. Prior to issuance of a license, the primary caregiver in a single-site home and all primary caregivers in a system shall:

   (i) be 18 years of age or older;

   (ii) be able to read and write English; and

   (iii) have earned a high school diploma (See definitions in Section 1240-04-01-.01).

2. A primary caregiver shall complete a DHS-sponsored child care orientation class within three months of licensure.

3. A substitute for the primary caregiver shall be at least 18 years of age.
4. A primary caregiver shall present evidence of receiving eight hours of training, consultation, or technical assistance annually in child care or a related field. After the first year of licensure (in any category), this training shall be in addition to other required training in specific subject areas such as Child and Adult Care Food Program (CACFP), personal safety or first aid, etc.

5. A primary caregiver shall not be employed at any other occupation during child care operating hours.

(c) Central Operator.

1. In order to receive a license, the central operator or person in charge of the child care system (or multiple homes) shall have:

   (i) Graduated a four-year college or university and completed one year of fulltime work experience with a group of young children; or

   (ii) Completed some formal college training in early childhood education or child development (or related field), or received a Child Development Associate (CDA) credential or National Association of Family Day Care (NAFDC) accreditation, and completed one year of full-time work experience with a group of young children; or

   (iii) A high school diploma or its equivalent (see “Definitions” in Chapter 1240-04-01-.01) and two years full-time work experience with a group of young children.

2. The central operator or person in charge of the child care system shall complete a DHS-sponsored child-care orientation class within three months of licensure.

(2) Caregiver to Child Ratios and Supervision.

(a) An adult caregiver (at least 18 years of age) shall be present and supervising children in care.

(b) The total number of children (including “related” children under nine years of age) shall not exceed 15.

(c) If enrollment drops to seven or fewer children, family day care home ratios shall be met.

(d) If four (4) or more infants/toddlers are enrolled, they shall have their own space and their own caregiver for their safety and security and for infection control. Children shall be cared for in small groups as much as possible, but may be mixed for short periods. Barriers shall be sufficient to provide separation without isolating children.

(e) Staff Ratios and Chart.

Current through rules effective April 2014.
1. A group day care home shall have 1, 2, or 3 caregivers, based upon the ages and numbers of children served.

2. Before eight (8) or more children are enrolled, the facility shall be approved by a fire safety inspector and by an environmentalist.

3. If any child’s physical or mental condition requires special care, or if children under nine (9) years of age living in the home increases the group size, or when a field trip is taken off the premises, the number of caregivers shall be increased by one (1).

4. One of the following adult:child ratios shall be met. (A chart is also provided at the end of part 4.):

   (i) Group Day Care Homes with One Caregiver:

   (I) If any number of children up to the maximum of fifteen (15) children are present, and no child is under three (3) years of age, at least one (1) caregiver shall be present.

   (II) If over twelve (12) children are enrolled, the additional children shall be of school age and a school age program shall be provided.

   (ii) Group Day Care Homes with Two Caregivers:

   (I) If any number of children up to the maximum of fifteen (15) children are present, and at least one (1) but not more than nine (9) children are present who are under the age of three (3), then at least two (2) caregivers shall be present. If more than four (4) of those children are under two (2) years of age, three (3) caregivers shall be present.

   (II) If over twelve (12) children are enrolled, the additional children shall be of school age and a school age program shall be provided.

   (iii) Group Day Care Homes with Three Caregivers:

   (I) If any number of children up to the maximum of fifteen (15) children are present, and ten (10) or more children present are under three (3) years of age, there shall be three (3) caregivers present.

   (II) If over twelve (12) children are enrolled, the additional children shall be of school age and a school age program shall be provided.

<table>
<thead>
<tr>
<th>Caregivers Required</th>
<th>Maximum Number of Children and Ages</th>
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Current through rules effective April 2014.
<table>
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<tr>
<th></th>
<th>Maximum of 15 present and no child present is under three (3) years of age.³</th>
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<tbody>
<tr>
<td>2</td>
<td>Maximum of 15 present and at least one (1) child up to a maximum of nine (9) children present are under three (3) years of age, but no more than four (4) present are under two (2) years of age.⁷</td>
</tr>
<tr>
<td>3</td>
<td>Maximum of 15 if ten (10) or more are under three (3) years of age.³</td>
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1. If any child’s physical or mental condition requires special care, if children under 9 living in the home increases the group size, or when a field trip is taken off premises, the number of caregivers required shall be increased by one.

2. Before 8 or more children are enrolled, the facility shall be approved by a fire safety inspector and by an environmentalist.

3. If over 12 children are enrolled, the additional children shall be of school age and a school age program shall be provided.

Tenn. Comp. R. & Regs. 1240-04-01-.04

1240-04-01-.04. EQUIPMENT.

(1) General.

(a) All equipment shall be well made and safe with no sharp edges, splinters, or other conditions which present a hazard for children.

(b) Unsafe equipment shall be repaired or removed from the day care home or play yard at once.

Current through rules effective April 2014.
(c) Babies and toddlers shall have additional equipment for comfort and safety, such as cribs, high chairs, etc.

(d) School-aged children shall have educational materials such as puzzles, craft items, etc., and equipment suitable for their size, interests, and needs.

(2) Indoor Play Equipment.

(a) The day care home shall have play equipment for active and quiet play, suitable for the children’s ages and interests and for children with special needs, and for all activities required in the Program Section. (See Chapter 1240-04-01-.05.)

(b) Play materials and equipment shall be in sufficient quantity to provide twice as many activities as there are children at a given time.

(c) Play materials and equipment shall be placed in such a way that children can get it and return it when needed, so that they can grow in independence.

(3) Outdoor Play Equipment.

(a) Enough play equipment shall be provided so that each child can take part in many kinds of play each day.

(b) Equipment shall be placed to avoid accidents, for example, swings placed out of traffic paths.

(c) If there are climbers or swings, they shall be placed on a resilient surface and not over concrete, asphalt, or similar surface such as hard-packed dirt.

(d) Climbers, swings, and other large equipment shall be securely anchored.

(e) If used, retainer structures for loose material, such as sand or pea gravel, shall be placed at least six (6) feet from the perimeter of play structures.

Current through rules effective April 2014.
(a) A balanced daily program of developmentally appropriate activities shall be provided which includes some of the following: reading to and talking with children; art and music activities; building and manipulating toys; and dramatic play activities such as doll play, housekeeping, and role play. Children shall also be allowed to participate in age-appropriate home-type activities, such as cooking, cleaning, gardening, and washing clothes as a meaningful learning experience.

(b) There shall be a written and posted schedule of daily routine activities.

(c) Children shall be given opportunity to make their own choices in some activities. Other play activities shall be planned by the caregiver.

(d) Children shall not spend all day in one room, unless the room has at least 30 square feet of usable play space per child.

(e) Television, video tapes, and movies shall be limited to two hours per day and to programs designed for children’s education and/or enjoyment. Programs/movies with violent or adult content (including “soap operas”) shall not be permitted in children’s presence. Other activities shall be available to children during television/movie viewing.

(f) Except when the weather is extremely bad, children of all ages, including infants and toddlers, shall have outdoor play each day.

2) Discipline.

(a) Discipline techniques used shall be positive, appropriate to the age level and needs of children in care, designed to help children learn and maintain self-control and self-esteem; and shall not involve physical punishment, or deprivation of food, rest, or toileting. (Physical, or corporal punishment is the infliction of bodily pain as a penalty for the child’s behavior of which the punisher disapproves.)

(b) Praise and encouragement of good behavior shall be used instead of noticing only unacceptable behavior.

(c) Punishment which is shaming, humiliating, frightening, or injurious to children shall not be used.

3) Physical Care - Naps.

(a) Preschool children shall have a reclining rest period according to their individual needs. School-aged children shall be allowed to nap if needed but not forced to do so.

(b) Each toddler who is able to walk and each preschooler shall have individual napping space, something soft and at least two inches thick to sleep on, and clean bedding. (Examples: couch with cover, thick sleeping bag or foam pad, family bed with cover, or cot with cover.)

(c) Each child under 15 months of age and any child unable to walk shall have his/her own crib or playpen.
and bedding for napping.

(d) Because of the risk of Sudden Infant Death Syndrome (SIDS), sleeping infants (under 13 months) shall be checked every 30 minutes by touching them. If a child appears not to be breathing, emergency medical assistance shall be sought immediately.

(e) Each child shall have his or her own clean sheet and coverlet.

(f) After a child has rested for a reasonable period, she/he shall be allowed to get up.

(4) Physical Care - Toilet Training.

(a) Toilet training shall never be started until a child has been in the day care home long enough to feel comfortable.

(b) Toilet training shall not be started until a child is able to understand, to do what is asked of them, and to let their need to use the bathroom be known.

(c) Children shall not be made to sit on the potty or toilet for more than five minutes.

(d) Children shall be diapered or cleaned when needed in a safe, sanitary manner.

(5) Personal Safety Curriculum.

(a) For ages three (3) through school-age, a curriculum shall be offered that shall include instruction, at least once a year, in personal safety.

(b) Personal Safety Curriculum Components and Guidelines.

1. The personal safety curriculum shall include a Department-recognized component for the prevention of child abuse, including, for children four (4) years of age and older, a child sexual abuse prevention component.

2. The curriculum shall be based upon curriculum guidelines provided by the Department to the child care provider in any suitable format. The child care provider may choose terminology and instructional methods for this curriculum with a goal of providing clear, effective and appropriate instruction to the children in personal safety, including the prevention of all forms of child abuse.

(c) Personal Safety Instruction Requirements for School-Age Children.

1. For school-age children, the curriculum shall include instruction for reporting physical, sexual or verbal
2. Children of school-age shall not be required to receive personal safety instruction from the child care agency if they annually receive personal safety instruction as required by this paragraph (5) in the curriculum of their local public education agency, or, if they receive such instruction in any other educational setting, as approved, in either circumstance, by the Department.

3. Documentation of Personal Safety Instruction in Educational Settings.

(i) Written documentation, in a form and manner approved by the Department, verifying that annual personal safety instruction as required by this paragraph (5) is being provided in a public educational setting to each child enrolled in the child care agency, shall be maintained on file with the Department.

(ii) For children who do not attend public schools, the child care provider shall secure and maintain documentation, in a form and manner approved by the Department, verifying that each school-age child enrolled in the child care agency is receiving annual personal safety instruction as required by this paragraph (5).

(d) Beginning October 1, 2008, the personal safety curriculum used by a child care agency shall be made available by the child care agency to parents and legal guardians for review. The child care agency shall use a standard notification form developed by the Department that will be provided to the parents or legal guardians by the child care agency to confirm that the parents/guardians have been notified of the curriculum to be used and of their opportunity to review the personal safety curriculum.

(e) The record of each enrolled child shall include a copy of the signed notification form acknowledging that parents/legal guardians have been provided an opportunity to review the agency’s personal safety curriculum, and have been notified of the sexual abuse/personal safety curriculum for their child.

(f) If parents/legal guardians have questions regarding the personal safety curriculum, a representative of the child care agency shall meet with the parents/legal guardians to discuss the curriculum.

Tenn. Comp. R. & Regs. 1240-04-01-.06

1240-04-01-.06. HEALTH AND SAFETY.

(i) Children’s Health Records.

(a) Before a preschool child older than eight weeks is accepted for care, he/she shall have proof of being age-appropriately immunized against the following diseases: diphtheria, tetanus, pertussis, polio, measles, mumps, rubella, and hemophilus influenza type B by having a certification form signed or stamped by a certified health care provider. (Children of six through eight weeks of age may be enrolled before immunizations are begun.)

(b) Records of children older than 18 months shall state whether immunizations required for care are...
complete, and if not complete, when future immunizations will be given. If immunizations are not continued on time by the parent, the child shall not remain in care. [If a child has any known allergies, they shall be indicated in the child’s health record.] Foreign-born children shall also present evidence of tuberculosis (TB) screening. (See Appendix B for information about TB screening.)

(c) A copy of each infant/toddler’s or preschool child’s immunization record shall be on file in the day care home and available to appropriate staff. (Children of six through eight weeks of age may be enrolled before immunizations are begun.)

(d) Before a school-aged child is accepted for care, the caregiver shall have on file a statement from the parent (or school) that the child’s immunizations are current and that their health record is on file at the specified school which the child attends.

(e) If children with mental, physical, or sensory impairment or with a medical disorder are enrolled, their health records shall include a physician’s statement which identifies the disabling condition and which gives the physician’s special instructions for the child’s care.

(f) Before infants or toddlers aged 30 months and under are enrolled, they shall have proof of a physical examination within three months prior to admission, signed or stamped by a physician or health care agency. Each infant shall have on file an official health record of the first medical check-up at eight weeks of age.

(g) Exceptions to the above requirements in this section shall be made when:

1. The child’s physician or the Department of Health provides a signed and dated statement, giving a medical reason why the child should not be given a specified immunization; or

2. The child’s parent provides a written statement that such immunizations conflict with his/her religious tenets and practices.

(h) Accidents and injuries to children shall be noted in their records, including date and time occurred, description of circumstances and action taken by caregivers.

2) Children’s Health Requirements

(a) Children shall be checked upon arrival and observed for signs of communicable disease during the day. Every sign of illness or injury shall be reported to the parent as soon as possible but no later than the end of the day in which it occurred.

(b) Parents of every child enrolled shall be notified if one of the following communicable diseases has been introduced into the day care home: hepatitis A, food-borne outbreaks (food poisoning), salmonella, shigella, measles, mumps, rubella, pertussis, polio, hemophilus influenza type b, meningococcal meningitis. Providers shall report the occurrence of the above diseases to the local health department.

(c) Prescribed and nonprescribed, internal and external medication shall not be administered to a child except
under the direction of a physician or with the parent’s written authorization. Medications or drugs shall be labeled with the child’s name and specific instructions for administering them. Administration of medications and noticeable side effects shall be charted and reported to parents. Medication shall not be handled by children and shall be stored so as to be inaccessible to children.

(d) Good hygiene shall be practiced, such as frequent handwashing; one-time use of tissues, napkins, and washcloths; proper storage and use of personal articles; and hygienic diapering techniques.

(3) Caregivers’ Health Requirements

(a) Before beginning to work, each caregiver shall have written evidence of a physical examination and statement that the caregiver’s general physical and mental condition will permit the individual to direct and actively participate in the activities of a group of young children. The form or statement shall be signed or stamped by a physician.

(b) An updated statement of each caregiver’s physical health shall be obtained every third year or more often if deemed necessary by the Department. A statement of a caregiver’s mental or emotional health shall be obtained from a psychiatrist or clinical psychologist when deemed necessary by the Department.

(c) Each caregiver (whether employed full-time or part-time), volunteers, and others who are in contact with the children 30 or more calendar days per year shall have on file evidence of a tuberculin skin test or chest X-ray with negative results, in accordance with Department of Health recommendations. (See guidelines in Appendix B.)

(d) Caregivers shall not smoke while physically interacting with the children. Parents shall be informed if anyone in the home smokes.

(e) For the protection of children and adults, caregivers and helpers shall wash their hands immediately after changing a child’s diaper, or aiding in toileting, before changing or aiding another child.

(f) For the protection of children and adults, when blood is to be handled (e.g., resulting from injury to a child or adult, from nosebleed or from spillage), vinyl or latex gloves shall be used and properly disposed of following use with/by one individual.

(g) Following a diaper change or blood spillage, surfaces shall be cleaned and sanitized with a solution of 1/4 cup chlorine bleach to one gallon of water.

(4) Safety

(a) The primary caregiver shall have evidence of completing, or being currently enrolled in, a pediatric first aid course (a minimum of three hours) taught by a qualified instructor.

(b) The primary caregiver shall have evidence of completing, or being currently enrolled in, a pediatric CPR course (a minimum of three hours) taught by a qualified instructor.

Current through rules effective April 2014.
(c) First aid information shall be posted, and caregivers and helpers shall be familiar with it.

(d) A first aid kit shall be available to staff. The contents shall include a digital thermometer, bandages, and other items listed in Appendix C.

(e) The home shall have a working telephone accessible to caregivers for incoming and outgoing calls.

(f) These telephone numbers shall be posted near the telephone: fire department, law enforcement, hospital, child abuse hotline, civil defense/emergency management, and numbers where parents may be reached. Rescue squad, ambulance, and poison control center numbers shall also be posted if available in the community.

(g) All homes shall annually present a child sexual abuse prevention program to children enrolled in and cared for by the home.

(h) Suspected abuse or neglect of a child shall be reported immediately to the local DHS office. Failure to do so is, by itself, grounds to deny or revoke the agency’s license.

(i) The primary caregiver shall be reasonably prepared to protect children in the event of a disaster by knowing who to contact and how to cooperate with the local Emergency Management Plan.

(j) Emergency transportation shall be planned for and shall be provided as needed.

(k) Firearms and other deadly weapons or tools on the premises shall be secured in such a way that they are inaccessible to children.

(l) Use of swimming pools shall comply with environmental sanitation regulations in Appendix E. Wading pools which have not been approved by the environmentalist shall not be used.

(m) Pets shall be vaccinated in accordance with a veterinarian’s recommendation. Unconfined pets and children shall not be together on a regular basis. An adult shall be present while pets are with children. Animals and birds shall not be allowed in areas of food storage, preparation, or service.

Tenn. Comp. R. & Regs. 1240-04-01-.07
1240-04-01-.07. TRANSPORTATION.

(1) Management Responsibility, Loading\Unloading and Verification Procedures; Staff Qualifications.

(a) Management Responsibility.

Current through rules effective April 2014.
1. Existing child care agencies, or those applying or re-applying for licenses, that provide transportation services, must provide a written statement to the Department describing:

   (i) The type(s) of transportation that will be offered, e.g., from the child’s home to the child care agency, from the child care agency to the child’s school, etc.;

   (ii) The types of vehicles that will be used for the transportation of children, e.g., a 1999 fifteen (15) passenger Ford van;

   (iii) Any contracts, agreements or arrangements with any third parties for the provision of transportation services;

   (iv) The provider’s plan for maintaining compliance with the transportation time limits set forth in 1240-04-01-.07(6);

   (v) The provider’s policy and procedures for maintaining compliance with the transportation verification procedures set forth in 1240-04-01-.07(1)(b);

   (vi) The provider’s policy and procedures for attaining and maintaining compliance with child restraint procedures required by: these rules; Tennessee Code Annotated, Title 55, Chapter 9, Part 6; applicable Federal Motor Vehicle Safety Standards relative to child safety restraints, and; the child restraint and vehicle manufacturer’s design requirements for the type of child restraints and vehicles used to transport children; and

   (vii) The provider’s policy and procedures for the emergency evacuation of the vehicle.

2. The child care home’s management shall be fully responsible for the transportation of children between home and the child care home, to or from school, and/or on field trips on any vehicle which it operates, for which it contracts or which is otherwise under its direction or control.

3. Vehicles used to transport children and which are owned or operated by, contracted for or which are otherwise under the direction and control of the child care agency, shall carry automobile liability insurance coverage for each vehicle used for that purpose in the minimum amounts required by Rule 1240-04-01-.02(7).

(b) Loading\Unloading and Verification Procedures.

1. The driver of the vehicle or any other designated staff person riding on the vehicle shall use a passenger log to record the name of each individual child received for transport as the child enters the vehicle. No child shall be accounted for by use of a single entry in the log that would include all, or part, of a group of other siblings or relatives with the same last name and with whom the child is being transported. For example, three (3) siblings with the same last name, e.g., “Doe”, who are transported on the same vehicle shall not be recorded by the single entry “Doe” which only records the group’s last name and is used by...
the child care home to signify that all three (3) “Doe” children are accounted for. Each child shall, instead, be separately listed by first and last name.

2. During transportation, the passenger log shall be used to take roll each time the vehicle makes a stop as each child is loaded or unloaded.

3. Whenever children being transported are released from the vehicle to their parent or other designated person, the passenger log shall immediately be updated to reflect which children have been released.

4. Immediately upon unloading the last child/children from the vehicle, and to ensure that all the children being transported have been unloaded, the driver and any other staff members riding on the vehicle shall immediately deliver the passenger log to the person designated by the child care home in part 5 and shall immediately:

   (i) physically walk through the vehicle; and

   (ii) inspect all seat surfaces, under all seats and in all compartments or recesses in the vehicle’s interior.

5. Additional caregiver/staff review and verification requirements.

   (i) The child care home shall also designate a caregiver or management level staff person, other than the person responsible for the recording in the passenger log on the vehicle, who shall provide additional review and additional verification that the children have been unloaded from the vehicle and properly accounted for.

   (ii) When unloading children at the child care home or field trip destinations, or when, prior to being parked at the child care home or other location, and to ensure that all children have been unloaded, the person designated pursuant to subpart (i) of this part 5 shall also immediately request the passenger log from the person on the vehicle responsible for maintaining the log and shall immediately:

      (I) reconcile the passenger log with the children’s attendance records; and

      (II) conduct the same inspection as required in subparts (1)(b)4(i) and (ii) above.

   (iii) Verification of the passenger logs and attendance records required by this subparagraph (b) shall be made by having the printed name of the persons who complete the logs and records written or printed on the passenger log and attendance record accompanied by the handwritten initials of such persons. Passenger logs and attendance records shall be maintained for a period of one (1) year or until the next re-evaluation of the group child care home for an annual license, whichever is first.

6. The driver or any accompanying staff member shall assure that every child is received by a parent or other designated person.

Current through rules effective April 2014.
7. When children are transported to school, they shall be released in accordance with the following procedures:

(i) the children shall be unloaded only at the location designated by the school;

(ii) the children are only allowed to unload from the group child care home’s vehicle at the time the school is open to receive them;

(iii) the driver/caregiver shall watch the children who are unloaded from the vehicle walk through the entrance door designated by the school for the children; and

(iv) any additional procedures established by the school.

8. The provisions of this subparagraph (b) apply to child care agency staff and to personnel operating vehicles for any contracted transportation service for a licensed or approved child care agency or for any other transportation service that is under the direction or control of a child care agency, that provides such services for children enrolled in the child care agency.

(c) Transportation Staff Qualifications.

1. Driver License Requirements.

(i) All persons responsible, or who may in the course of their duties become responsible, at any time, for driving a vehicle that transports children enrolled in the child care agency, shall hold, at a minimum, a current Tennessee driver license with an “F” (“for hire”) endorsement pursuant to T.C.A. § 55-50-102(20)(F) unless such persons already have an endorsement or hold a license which the Department of Safety recognizes as inclusive of the “F” endorsement requirements, or shall hold such other license or endorsement provided for by State law or regulation governing driver qualifications for the type or size of vehicle used, or which may otherwise govern driver qualifications, for transportation of children enrolled by licensed or approved child care agencies.

(ii) Effective January 1, 2004, all persons subject to this part 1 shall obtain a certification document from the Department of Safety to signify that they have passed additional written or skills tests required for persons who may, in the course of their duties drive a vehicle that transports children enrolled in a child care agency.

(iii) Effective January 1, 2004, all persons subject to this part 1 shall be required to obtain annual training that is utilized for school bus drivers offered by the Department of Safety or such other equivalent training as the Department of Safety may determine is appropriate.

(iv) Evidence of completion of the requirements in subparts (i)-(iii) for each person employed or otherwise utilized by the agency under any contract or any other arrangement shall be maintained in the records of the child care agency. Failure to obtain or timely exhibit completion of this additional certification when requested shall result in ineligibility of the person from any further driving duties for the child care agency until such requirements are fulfilled.

Current through rules effective April 2014.
2. Health Examinations and Drug Screenings.

(i) Health Examinations.

All persons driving vehicles at any time for the transportation of children enrolled in the child care agency shall annually provide to the Department a health statement or statements, based upon an examination of the individual, that are signed by the examining licensed physician, licensed psychologist, licensed clinician, Nurse Practitioner, or Physician’s Assistant, verifying that the individual is physically, mentally and emotionally capable in all respects of safely and appropriately providing transportation for children.

(ii) Drug Screenings.

(I) Any person, in accordance with procedures established by the Department, shall pass a drug screen:

I. Prior to such person being employed as a full or part-time employee with a licensed or approved child care agency for a position which has any duties involving driving any vehicle utilized by the child care agency to transport children enrolled in that child care agency; or

II. Prior to such person being employed, in any position which has any duties involving driving any vehicle utilized to transport children enrolled in any child care agency, as a full-time or part-time employee by a contractor of a licensed or approved child care agency, or by any other persons or entities, any of which transports, for any compensation, children enrolled in the care of the child care agency as part of the agency’s transportation program or service for such children offered by such child care agency; or

III. Prior to the assumption, at anytime, of any driving duties by an existing full-time or part-time employee of the licensed or approved child care agency, or, of an existing full-time or part-time employee of a contractor or other person or entity providing transportation, for compensation, to the child care agency as part of such child care agency’s transportation program or service.

(II) Effective January 1, 2004, all existing drivers who have been previously assigned by the child care agency or its contractors or by any other person or entity as a driver of any vehicle providing child care transportation for a licensed or approved child care agency, under any arrangement and who have not been tested as required by item (I), shall have a drug screen in accordance with procedures established by the Department.

(iii) The child care agency shall immediately review the results of the drug screen upon receipt, and upon receipt by the child care agency of a positive drug screen result for an employee of the child care agency, or upon receipt of notification of such result for a tested individual from a contractor or other person or entity providing transportation, for compensation, to the child care agency as part of such child care agency’s transportation program or service, the child care agency shall immediately:

(I) Notify the Department and prohibit, or require its contractor or other entity providing transportation

Current through rules effective April 2014.
for compensation to the child care agency as part of the child care agency’s transportation program to prohibit, the individual from any driving duties involving any transportation of children enrolled in the child care agency; and

(II) Enter into a safety plan approved by the Department that excludes the individual from driving for the child care agency until the individual passes a drug screen test and is otherwise approved, in writing, by the Department, to provide driving duties involving the transportation of children for the child care agency.

3. Prior to assuming their duties, all persons responsible, or who may in the course of their duties become responsible, at any time, for transporting children (including drivers and monitors) shall complete Department of Human Services-recognized pre-service transportation training in:

(i) The proper daily safety inspection of the vehicle set forth in subparagraph (2)(b) below;

(ii) The proper use of child safety restraints set forth in paragraph (4) and Tennessee Code Annotated, Title 55, Chapter 9, Part 6 and applicable Federal Motor Vehicle Safety Standards relative to child safety restraint systems and vehicle design requirements for the type of vehicle used to transport children;

(iii) The proper use of the verification procedures set forth in subparagraph (1)(b) above;

(iv) The proper use of a blood borne pathogen kit;

(v) The proper procedures for the evacuation of the vehicle based upon the type of vehicle and the ages of the children served; and

(vi) The developmentally appropriate practices applicable to the behavior management of children during transportation.

4. Following the completion of pre-service transportation training, all persons responsible at any time for the transportation of children (including drivers and monitors), shall complete Department of Human Services-recognized transportation training that includes the subject matter set forth in 1240-04-01-.07(1)(c)3, above, a minimum of every six (6) months.

5. Emergency Aid Training.

(i) All persons responsible, or who may in the course of their duties become responsible at any time, for the transportation of children shall hold current certification in Infant/Pediatric Cardiopulmonary Resuscitation (CPR) from the American Red Cross, the American Heart Association, or other certifying organization, as recognized by the Department.

(ii) Effective July 1, 2004, all persons responsible, or who may in the course of their duties become responsible at any time, for the transportation of children shall complete a first aid course sponsored or
approved by the American Red Cross, or other first aid course, as recognized by the Department.

6. The provisions of this subparagraph (c) apply to child care agency staff and to personnel operating vehicles for any contracted transportation service for a licensed or approved child care agency or for any other transportation service under the direction or control of a child care agency.

7. The requirements of 1240-04-01-.07(1)(c) do not apply to individuals who provide transportation services exclusively for occasional field trips.

2) Vehicle Inspections; Passenger Limitations; Vehicle Design Requirements; Child Seating Space Requirements; Emergency Equipment; Prohibition of Firearms or other Weapons on Vehicles.

(a) The requirements of this paragraph (2) include vehicles used at anytime for the regular child care vehicle(s) and those used as back-up vehicles. Exception: The requirements of this paragraph (2) do not apply to vehicles operated solely for the purpose of providing transportation for occasional field trips.

(b) The child care agency shall maintain, and shall require providers of transportation services for children under contract to the agency or under the agency’s direction or control to maintain, documentation that designated child care, contractor, or other entity staff perform daily the following inspections, followed by any necessary repairs or other appropriate actions, before beginning transportation of children for the child care agency:

1. A visual inspection of the vehicle’s tires for wear and adequate pressure;

2. A visual inspection for working headlights and taillights, signals, mirrors, wiper blades and dash gauges;

3. An inspection for properly functioning child and driver restraints;

4. An inspection for properly functioning doors and windows;

5. An inspection for the presence of safety equipment required by these rules or any other provisions of law or regulations, and repair or replacement as necessary based upon visual evidence of the need do so;

6. A determination that the vehicle has adequate fuel; and

7. An inspection for, and cleaning of, debris from the vehicle’s interior.

(c) The child care agency shall maintain, and shall require providers of transportation services for children under contract to the agency or under the agency’s direction or control to maintain, documentation that the vehicles used to transport children receive regular inspections and maintenance by a certified mechanic in accordance with the maintenance schedule recommended by the vehicle manufacturer, and, in addition shall have the following vehicle equipment certified as inspected at least every four thousand (4,000) miles if not
covered by, and/or serviced in accordance with the manufacturer’s maintenance schedule:

1. Brakes;

2. Steering;

3. Oil levels, coolant, brake, windshield washer and transmission fluids;

4. Hoses and belts.

(d) Beginning January 1, 2004, the Department of Safety will conduct annual vehicle safety inspections on all vehicles used by the child care agency directly, under contract, or under the control or direction of the agency designed by the vehicle manufacturer to carry ten (10) or more passengers. Any necessary maintenance or repair to the vehicles disclosed by the inspections shall be the sole responsibility of the child care agency.

(e) All documentation of the child care agency or providers of transportation services for children under contract to the agency or under the agency’s direction or control shall be made available upon request to Department staff.

(f) No vehicle which does not pass the inspections required in subparagraphs (b), (c) or (d) shall be used by the child care agency or by its contractors, or others subject to the agency’s direction and control, to provide transportation services until necessary repairs, as determined by the Department, have been made.

(g) Passenger Restraints, Capacity Limitations and Cargo Requirements.

1. All children and adults riding in a vehicle used to transport a child to and from a child care agency, to and from school, or to and from field trips must be restrained by separate passenger restraint devices in the vehicle’s seating area, at a minimum, as required by state or federal law or regulation, or, as otherwise required by these rules.

2. The total number of adults and children in vehicles used for the transportation of children enrolled in a licensed or approved child care agency shall never exceed the manufacturer’s rated passenger capacity.

3. In a vehicle being used for the transportation of children enrolled in a licensed or approved child care agency, all cargo, luggage or equipment of any type shall be adequately secured at all times in such manner as to protect the passengers in case of accident or emergency maneuvers.

4. The provisions of this subparagraph (g) also apply to vehicles operated by any contracted transportation service for a licensed or approved child care agency, or for any other transportation service under the direction or control of a child care agency.

Current through rules effective April 2014.
(h) Requirements for Child Care Transportation Vehicles Effective January 1, 2007.

1. Effective January 1, 2007 all vehicles that the child care agency operates, for which it contracts, or which are otherwise under its direction or control, that are designed to carry ten (10) or more passengers must conform to all Federal Motor Vehicle Safety Standards (FMVSS) governing either “large” school buses or “small” school buses, as applicable, in accordance with the provisions of the FMVSS described in 49 Code of Federal Regulations Part 571, or as such Part may be amended.

2. Effective January 1, 2007, if buses in either the “large” or “small” classes of school buses under the FMVSS are used, they must have factory-installed passenger restraint anchorages and passenger restraints that are suitable for use in transporting children of any age who are to be transported on either a “large” or “small” school bus.

3. The requirements of this subparagraph (h) do not apply to vehicles used exclusively for the provision of occasional field trips.

(i) A minimum of ten (10) inches seat space per child is required in a vehicle transporting children.

(j) A vehicle used to transport children shall have fire extinguishers, emergency reflective triangles, a first aid kit and a blood-borne pathogenic clean-up kit, and an adult familiar with the use of this equipment on board. Emergency exiting procedures shall be practiced on a regular basis by all staff responsible for transporting children.

(k) The carrying, possession or storage of firearms or other weapons is prohibited in vehicles used to transport children.

(3) Vehicle Signage Requirements; Exceptions.

(a) The requirements of this paragraph (3) are effective March 1, 2003, and are applicable to all vehicles used for the transportation of children enrolled in a child care agency licensed or approved by the Department, including vehicles operated by a contractor of the agency or vehicles operated by any other provider of services under the direction or control of the child care agency, unless specifically exempted by the provisions of subparagraph (e) below.

(b) All vehicles used for the transportation of children enrolled in the child care agency must, as determined by the Department, clearly and readily identify to the driving public that the vehicle is used for the transportation of children who are in child care.

1. On each side of the vehicle the following information shall be displayed:

   (i) The full name of the child care agency and emergency contact number for the agency in any font or color, including the agency’s current logo and lettering scheme; provided that the lettering is not less than one and one-half inches (1½") in height and is clearly readable at a distance of fifty feet (50’) on a
stationary vehicle in daylight conditions; and

(ii) The words “Child Care Transportation Complaints” followed by the Department of Human Services’ toll-free Child Care Transportation Complaint phone number in black lettering in a block font, not less than one and one-half inches (1½”) in height. This text shall appear on a clearly contrasting background that is clearly readable at a distance of fifty feet (50’) on a stationary vehicle in daylight conditions.

2. On the rear of the vehicle the following information shall be displayed:

(i) The full name of the child care agency and the words “Child Care Transportation Complaints” followed by the Department of Human Services toll-free Child Care Transportation Complaint phone number in black letters in a block font not less than one inch (1”) in height on a clearly contrasting background that is clearly readable at a distance of forty feet (40’) on a stationary vehicle in daylight conditions.

(ii) The provisions of this part (2) shall not apply to passenger automobiles (excluding minivans) used for transportation by the child care agency with a manufacturer’s rated seating capacity of six (6) or fewer passengers.

(c) The information required in subparagraph (b) must be applied to the vehicle in one of the following formats:

1. Painted directly on the vehicle in accordance with the paint manufacturer’s instructions using paint recommended by the paint manufacturer as appropriate for use on a vehicle; or

2. A weather-resistant sign securely fastened to the vehicle. The term “securely fastened” includes magnetic signs and signs bolted to the vehicle. The term does not include adhesives such as tape or glue unless recommended by the adhesive manufacturer as being appropriate for outdoor use on a vehicle.

(d) Special Requirements for Centralized Transportation.

1. Central operators or any other entity that may own or operate more than one child care agency and which may provide centralized transportation services for its child care agencies; and/or

2. Contractors, or other transportation service providers under the direction or control of the child care agency, which may provide centralized transportation services to more than one child care agency may substitute for the name and phone number of the child care agency required by parts 1240-04-01-.07(3)(b)1 and 2 above the full name and emergency contact number of the central operator, contractor or other transportation service providers under the direction or control of the child care agency. If the name on the vehicle does not clearly designate the agency or entity as one providing child care transportation, words such as “Child Care Transportation Vehicle” or “Child Care Transportation Services”, or similar language approved by the Department, must be displayed on the vehicle in a manner that demonstrates, as determined by the Department, that the vehicle is providing child care transportation.
(e) Exceptions to Vehicle Identification Requirements.

1. Vehicles used exclusively for the provision of occasional field trips; and

2. Vehicles used exclusively for the limited provision of emergency transportation, e.g., as a result of the mechanical breakdown of the regular child care vehicle.

3. The Department may, in its discretion, determine if exceptions to the requirements of this paragraph (3) may be made for child care agencies owned, operated, or under the direction or control of a public agency. For purposes of this subparagraph (e), a “public agency” is any entity controlled, owned or operated by a state, county or local entity, or a political subdivision of the State of Tennessee.

4. The Department may, in its discretion, determine if certain child care agencies may be exempted from any or all of the requirements of this paragraph (3) due to facts which may clearly warrant such exemptions.

(4) Child Safety Restraints.

(a) The provisions of this paragraph (4) shall apply to any vehicle used to transport children as of the effective date of these rules, unless stated otherwise by the rule. Any vehicle whether:

1. A passenger car;

2. A stock or custom van or sport utility vehicle;

3. A school bus classified as a “small” or “large” bus as required in FMVSS contained in 49 Code of Federal Regulations Part 571; or

4. Any other vehicle must be properly equipped with the child passenger restraints required by subparagraphs (c) - (f) below and must comply with all other provisions of this paragraph (4).

(b) Children under four (4) years of age shall never be placed in the front seat of the vehicle.

(c) Children who weigh less than twenty pounds (20 lbs.) shall be placed to face the rear of the vehicle. Children who weigh twenty pounds (20 lbs.) or more shall be placed to face the front of the vehicle unless the special needs of a disabled child otherwise require the child to face the rear of the vehicle.

(d) Children who weigh less than forty pounds (40 lbs.) shall be restrained in a Federallyapproved child restraint device in accordance with the child restraint device manufacturer’s instructions. The child restraint device shall be secured to the vehicle in accordance with the child restraint device manufacturer’s instructions.
(e) Children Between Forty Pounds (40 lbs.) and Eighty Pounds (80 lbs.).

1. Children who weigh between forty pounds (40 lbs.) and eighty pounds (80 lbs.) may be restrained in a belt-positioning booster seat (BPBS) that has been secured in accordance with the vehicle and restraint manufacturers’ instructions. BPBS devices shall always be secured to the vehicle in accordance with the vehicle and the restraint device manufacturer’s instructions. If, however, a BPBS restraint device is not used, the child shall be restrained in both a lap belt and a shoulder belt if available in the vehicle. If a lap and shoulder belt restraint system is not available in the vehicle, the child shall be restrained by a lap belt.

2. Effective January 1, 2007, children who weigh between forty pounds (40 lbs.) and eighty pounds (80 lbs.) shall be restrained in a belt-positioning booster seat (BPBS) in accordance with the BPBS manufacturer’s instructions. BPBS devices shall always be secured to the vehicle in accordance with the vehicle and the restraint device manufacturer’s instructions.

(f) Children Weighing More Than Eighty (80 lbs.) or Who are Taller Than Four Feet Nine Inches (4′9″).

1. Children who weigh more than eighty pounds (80 lbs.) or who are taller than four feet nine inches (4′9″) may be restrained in an adult lap belt and shoulder belt that has been secured in accordance with the vehicle manufacturer’s instructions. If, however, an adult lap belt and shoulder belt is not used, the child shall be restrained by a lap belt.

2. Effective January 1, 2007, children who weigh more than eighty pounds (80 lbs.) or who are taller than four feet nine inches (4′9″) shall be restrained in an adult lap belt and shoulder belt in accordance with the vehicle manufacturer’s instructions.

(g) Passenger air bags shall remain turned off unless an adult or a child fifteen (15) years of age or older is riding in the front passenger seat of the vehicle.

(h) No child shall ride on the floor of a vehicle and no child shall be placed with another child in the same restraint device.

(i) Notwithstanding the provisions of this paragraph (4), until January 1, 2007, children of school-age (in kindergarten or any grade level above) shall not be required to use child restraints when being transported in school buses classified in the “large” category under FMVSS.

(5) Supervision of Children During Transportation.

(a) An adult must be in the vehicle whenever a child is in the vehicle.

(b) Adult Monitor Requirements for Child Care Transportation.

1. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more children ages six (6) weeks through five (5) years of age, who are not in kindergarten; provided, however an adult monitor, in addition to the driver, is required on the vehicle for all routes exceeding
thirty (30) minutes for children ages six (6) weeks through five (5) years of age, who are not in kindergarten, regardless of the numbers of children being transported.

2. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more non-ambulatory children (permanent or temporary) of any age.

3. On field trips off premises, the number of adults at the destination shall be double the requirements on the adult:child ratio charts in paragraph (2) of subchapter 1240-04-01-.03, Caregiver to Child Ratios and Supervision; provided, however, the adult monitor referenced in parts 1 and 2 of this subparagraph (b) may be used for purposes of this requirement.

(6) Limits on Time Children Are Transported/Transportation Waivers.

(a) Children shall not spend more than forty-five (45) minutes traveling one way; provided, however, this provision is not applicable for occasional field trips.

(b) If extended transportation beyond the limits in subparagraph (a) is necessary in special circumstances, or as may be required by geographic factors, an individualized plan shall be established and signed by the parent(s) and the child care agency and approved by the Department prior to providing such transportation.

(7) Except as otherwise exempted, the provisions of paragraphs (4)--(6) shall apply to all vehicles used for the transportation of children enrolled in a child care agency licensed or approved by the Department, including vehicles provided by a contractor of the agency or vehicles operated by any other provider of services under the direction or control of the child care agency.

(1) Nutritional Needs.

(a) For children in the home at least four hours, one snack (defined as two of these four choices: fluid milk; meat or meat alternate; fruit, vegetable or full-strength juice; or whole grain or enriched bread) shall be provided, unless the four-hour period covers a normal meal hour, in which case a meal shall be provided.

(b) Snacks provided shall be nourishing and planned as a part of the day’s food allowances. Carbonated drinks, fruit-flavored drinks, imitation milk drinks, and candy shall not be served as snack foods. Powdered milks shall be used only in a cooked food product. (Real juice will be labeled “100% juice” or “full-strength juice”. Powdered milk does not meet the requirement.) (See Appendix D for suggested food pattern for snacks.)

(c) For children in the home five to 10 hours, one meal (defined as meat or meat alternates, vegetable and/or fruit, bread or bread product, and milk) and one or two snacks shall be provided, two snacks if the period is as much as seven hours. (See Appendix D for suggested meal patterns.)
(d) For those in the home longer than 10 hours, two meals and two snacks shall be furnished.

(e) Breakfast (defined as fruit, vegetable or full-strength juice; cereal or bread product; and milk) shall be offered to children who arrive before 7:00 a.m. and who have not had breakfast at home.

(f) Diets of infants and other special diets shall be prepared as prescribed by a physician.

(g) The week’s menus shall be planned and posted by the first day of each week and remain posted until the following week so that parents can be aware of the food their children are receiving. These menus shall be followed, although reasonable substitutions are permissible if the substituted food contains the same nutrients. The change shall be documented in advance of the meal. (Information on menu-planning is available upon request.)

(2) Meal Service.

(a) Caregivers and children shall wash their hands before eating or prior to any preparation of food.

(b) High chairs and tables on which food is served shall be washed with soap and water prior to and after snacks and meals.

(c) Napkins and forks and/or spoons shall be provided for children who feed themselves.

(d) All formulas and food brought from home shall be labeled with the child’s name. Milk shall be placed immediately in the refrigerator. Previously opened baby food jars shall not be accepted by caregivers. All formulas remaining in bottles after feeding shall be discarded.

(e) When children are capable of using a high chair, they shall be allowed to do so and to experiment with food, with feeding themselves, and to eat with fingers or spoon.

(f) Bottles shall not be propped or given to children who are lying flat.

(g) Solid foods shall not be given in a bottle, or with infant feeders, to children of normal eating abilities.

(h) All infant’s feeding schedule shall be made and adapted to a child’s need rather than on the hour.

(i) Weaning shall not be started immediately after enrollment but after parents and caregivers have communicated to establish consistency in the weaning process and after a child has become familiar with a cup or glass.

(j) Introduction of new foods to infants and toddlers shall be gradual, one at a time, over a five to seven-day
(k) The size of servings shall be adequate to meet children’s needs. (Portion size depends on child’s age. See Appendix D for chart of age/portion size.)

(l) Food, including dessert, shall not be forced on or withheld from a child.

(m) Floors under tables and high chairs on which food has been served shall be swept and/or vacuumed after each meal and mopped as needed.

(1) Any new group day care home/facility, or one that is remodeled, enlarged, or changed in any way, shall be approved by a state or authorized local fire safety inspector and by an environmentalist before day care operation can begin.

(2) Group day care homes shall be inspected and approved annually by a state or local fire safety inspector and by an environmentalist. Requirements in Appendices E and F shall be met before a license can be issued. (Requests for inspections are made by the Licensing Counselor.)

(3) Physical facilities shall continue to meet all standards in Appendices E and F and any updated fire prevention or environmental standards which are applicable.

(4) The inside of the home shall provide 30 square feet of usable play space per child, including children who are related to caregivers. (Usable play space does not include office space, bathrooms, or space occupied by large pieces of furniture.)

(5) The home shall have at least two exits directly to the outside, other than from the kitchen.

(6) When infants are in care, the diapering area shall be located as close to a handwashing lavatory as possible, but not in the kitchen.

(7) The home shall not be located in a building used for other purposes which would be hazardous or would limit outdoor play.

(8) The outdoor play area shall contain at least 50 square feet of space per child, including children who are related to caregivers.

(9) The areas where children play or are cared for shall be properly maintained. These areas shall be free of
hazardous items or materials unless adequately protected by storage, inaccessibility, proper supervision, or other safety procedures. These areas shall present no conditions which are hazardous to children. All such areas shall be free of all animal wastes.

Tenn. Comp. R. & Regs. 1240-04-01-.10

1240-04-01-.10. CARE OF CHILDREN WITH DISABILITIES.

(1) When children with disabilities are enrolled, the home shall provide those children equal opportunity to participate in the same program activities as their peers.

(2) Adaptations to the environment shall be directed toward normalizing the lifestyle of the child with a disability by helping him/her become independent and develop self-help skills.

(3) Any efforts to provide specialized services (e.g., speech/hearing therapy, physical therapy, psychological evaluation, or services for mentally retarded), either directly or by referral, shall be conducted only with written permission by parent and documented in the child’s record. Any informational exchange regarding these services shall also be documented.

(4) The home shall have a written individualized evacuation plan, which has been approved by the Licensing Counselor and is practiced in every monthly fire drill, for every child enrolled who requires more assistance to evacuate the facility than other children of the same age or in the same group.

Tenn. Comp. R. & Regs. 1240-04-01-.11

1240-04-01-.11. APPENDICES.

(1) The following Appendices referenced in the foregoing rules are incorporated in these rules by reference:

(a) Appendix A - I. Summary of Applicable Laws
   II. Questions and Answers About Day Care Licensing

(b) Appendix B - Guidelines for TB Screening

(c) Appendix C - Contents of First Aid Kit

(d) Appendix D - Meal/Snack Patterns and Portion Sizes

(e) Appendix E - Environmental Standards for Group Child Care Homes

Current through rules effective April 2014.
APPENDIX A

I. Summary Of Applicable Laws.

(A) Child Welfare Agencies (TCA §71-3-501 et seq.) (A complete copy of the licensing law is available upon request.)

1. Specifies the types of agencies that DHS has a mandate to license. Licensing of day care (less than 24-hour care) begins with five children. (Care for one to four children is exempt.)

2. Provides for development of standards, based on certain criteria by a 16 member “standards committee” appointed by the Commissioner. Standards are to be reviewed (and revised, if needed) every five years.

3. Requires DHS to provide applicants or licensees with assistance in meeting standards.

4. Requires annual application for a license and an application processing fee.

5. Upon receiving fire safety and environmental sanitation approval, provides that DHS will issue a 90-day conditional license if no apparent hazards to the children in care are present.

6. Provides for denial, suspension, or revocation of license and a waiting period ranging from 60 days to one year prior to reapplication.

7. Provides for appeals and hearings before the Board of Review, which includes representatives from the Departments of Health, Education, of the “advisory board” of DHS, from the appropriate Standards Committee, and three at-large members selected by the others. Appeals from the Board’s decision may be made to Chancery Court.

8. Imposes a misdemeanor penalty of imprisonment for six months and a fine of $500 or both for each offense (day) of operating without a license.

Current through rules effective April 2014.
9. Requires public agencies to meet the same standards as other child welfare agencies and a method of reporting to the public any uncorrected deficiencies.

10. Requires DHS to regularly inspect agencies without prior notice and grants the Department access to facilities and records in order to make an evaluation of the “kind and quality of work done” and to make recommendations regarding licensure.

11. Requires DHS to investigate reports of noncompliance.

12. Allows DHS to impose civil penalty ($25 - $150) for substantial noncompliance and probation for continued noncompliance.

13. Contains specified and defined exemptions for Parents’ Day Out programs, kindergartens, and “drop-in” programs. Also provides a waiver of adult to child ratios and group size requirements for certain Montessori schools.

14. Requires screening for criminal violations of persons applying to work with children through the registry maintained by the ‘Tennessee Bureau of Investigation (TBI).

15. Allows DHS to investigate all reports of abuse, neglect, or sexual abuse, even in exempt agencies, and enables DHS to revoke the license of a licensed agency and to enjoin an unlicensed person or agency from continuing to provide child care where abuse of children occurs.

(B) Access to Public Records (T.C.A §§10-7-503 and 10-7-504). Requires public bodies to provide any citizen of Tennessee access to public records except for specified confidential records (e.g., medical records, TBI investigative records, students’ records). DHS’ records on child welfare agencies are public records except as they may contain information obtained in the course of child abuse or neglect investigations.

(C) Child Protective Services (TCA §§37-1-401 et seq. and 37-1-601 et seq.).

1. Requires any individual or organization (such as day care agency, hospital, or school) having knowledge of suspected child abuse or neglect to report it to a juvenile judge, the Department of Human Services, or a law enforcement official. (Look in your telephone book under “Child Abuse”, or call the county DHS office or local law enforcement.)

2. Requires the identity of a reporting person to be kept confidential, subject to disclosure only by consent of the person or by judicial process. Provides immunity from civil or criminal liability if reports are made in good faith.

3. Gives DHS authority and responsibility to investigate reports of abuse or neglect.

4. Requires that all written records and information regarding investigations be confidential. Release of information is permissible to certain specified persons and to those having responsibility for administration of the law. Persons found not guilty of severe child abuse or child sexual abuse shall have
their names expunged from the TBI’s abuse registry.

5. Charges DHS with the responsibility of conducting a continuing publicity and education program to encourage reporting and to strengthen and improve child sexual abuse detection, prevention, and treatment efforts.

(D) Federal Funding.

Section 504 of the Rehabilitation Act of 1973 and Title VI of the Civil Rights Act of 1964 require agencies receiving federal funding to employ nondiscriminatory policies and practices. Persons receiving federal funding such as reimbursement from the USDA Child/Adult Care Food Program, DHS vendor or Transitional Child Care payments, Social Services Block Grants (SSBG), Dependent Care Grant funds for school-age child care, etc.; and persons receiving federal support in the form of space, staff, services, equipment, etc., are required to comply with the following.

1. Title VI of the Civil Rights Act of 1964 by ensuring that no person (child, parent, or employee) in your agency “shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance”; and by employing nondiscriminatory policies and practices and advertising such.

2. Section 504 of the Rehabilitation Act of 1973 by ensuring that no otherwise qualified handicapped person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any program activity solely on the basis of a handicap (applies to children, parents, and employees); and by making reasonable accommodations to serve or hire an otherwise qualified individual with a handicapping condition.

(E) Child Passenger Protection and Safety Belt Use (Transportation) (TCA §55-9-601 et seq.).

1. Requires any person transporting a child under the age of four years in a motor vehicle to provide for children’s protection by providing and properly using a federally approved child restraint system (manufactured after January 1, 1981). Violation is subject to a $50 fine or 30 days in jail or both.

2. Specifies that no one is to operate a motor vehicle unless all persons four and older in the front seat are properly restrained by a safety belt.

3. Imposes a fine of $50 or 30 days in jail or both for each violation after the first; however, the violator can be cited or arrested only after being cited or arrested for another violation of law.

4. TCA §§55-50-102(11) and 55-50-102(12)(B) requires the driver of a vehicle designed to carry 15 or more passengers (including the driver) to have a commercial driver’s license.

(F) Administrative Rules and Procedures (TCA §4-5-301 et seq. and Chapter 1240-5-11 et seq.).

1. Provides for an administrative hearing of any contested cases (i.e., on denial or revocation of licenses or
II. Questions And Answers About Day Care Licensing.

(A) How does a person get information about opening a child care agency?

The local county office of the Tennessee Department of Human Services will furnish information; a licensing representative will provide assistance free of charge to an individual or a group that is planning to provide child care.

(B) How many children am I allowed to care for?

In Tennessee, a person without a license may care for no more than four children. To care for five to seven children, in addition to “related” children, you must be licensed as a “family day care home” operator. To have eight (8) - twelve (12) children, you must be licensed as a “group” day care home operator. (Under certain conditions, a group day care home may have up to 15 children.)

(C) How is a license obtained?

1. After a completed application and the required fee are received, arrangements will be made for a
representative to visit your facility and evaluate the day care operation and/or facility in accordance with the required standards in this booklet.

2. Before a day care home can be licensed, it must pass fire safety and environmental sanitation inspections. The licensing representative will explain the procedure for getting inspected.

(D) What types of licenses are issued?

1. An “annual license” is granted when compliance with licensure requirements is confirmed by the Department.

2. A “conditional license” is granted to a new agency for 90 days when it does not meet all the required standards, but there is evidence than an effort is being made to comply with the requirements and it has first met fire safety and environmental sanitation approval.

(E) Who determines whether a license is issued?

The Commissioner has ultimate responsibility for issuance or denial, based upon an evaluation and recommendation by a licensing representative of the Department.

(F) Is the license permanent?

No, it is issued for up to one year. Prior to its expiration, an evaluation is made to determine whether compliance with requirements is being maintained and reissuance should be recommended.

(G) Is there a fee?

Yes, the fee is payable upon application and is nonrefundable. The fee for day care homes is $5 for a family day care home and $10 for a group day care home.

(H) Where is the license kept?

It must be posted in a conspicuous place in the day care home during business hours.

(I) Are licenses transferable?

No. The license applies only to the agency, organization, and person(s) to whom it is issued. It also applies only to the building approved.

(J) Does the same license for “day care” cover (1) nighttime care, (2) “drop-in” children, and (3) sick children?

Current through rules effective April 2014.
1. Yes. An agency that provides less than 24-hour care to children during nighttime hours receives the same license as a child care agency operating during daytime hours, and one license covers both programs in the same agency. An agency cannot provide continuous 24-hour care for two or more children without a residential license. If not licensed for day care, a residential license is needed for more than one child. Ask a licensing counselor about the procedure for obtaining a residential license.

2. “Drop-in” children are counted in the ratio and group and can be cared for only if required records are on file before they are cared for.

3. The day care home license also includes care of mildly ill children. Only mildly ill children (i.e., not “contagious”) should be cared for in a day care home and only then if staffing is adequate. Mild illnesses are generally those in a recuperative stage (e.g., getting over mumps or influenza).

(K) Who enforces licensure requirements for a child care system?

If homes are approved as an extension of a child welfare agency’s license, the central operator (the licensee) is responsible for monitoring compliance. The Department of Human Services monitors the agency’s compliance as well as licensed homes within a system.

(L) What is the procedure when a license is revoked, denied, or suspended?

The Department may deny, suspend, or revoke a license at any time by giving the owner, operator, or board a written notice by listing the specific reason or reasons for the action. Specified time periods are provided in the law. Any conduct or condition which might immediately jeopardize the safety of children, shall be cause for immediate suspension of the license, pending the outcome of revocation procedures.

(M) How can an operator or applicant appeal such action?

The licensing law provides for a Board of Review. If a license is denied or revoked by the Department, a request may be made for a hearing before the review board. An appeal of the decision from the review board may be judicially reviewed. The periods of time allowed for the appeals are set out in the law.

(N) Where do I call to file a complaint or get a license?

1. If you have a question about these standards, or if you want to report an unlicensed facility or a facility that is violating licensing requirements, call the DHS county office. It is listed in the telephone directory under Tennessee State Government, Human Services Department. Someone there will refer you to the licensing unit in your area.

If you want to open a child care facility, call that office before you do anything. You cannot care for a group of five or more children without a license.

Current through rules effective April 2014.
APPENDIX B

RECOMMENDATIONS FOR TUBERCULOSIS SCREENING OF PROGRAMS UNDER THE SUPERVISION OF THE DEPARTMENT OF HUMAN SERVICES [FN1]

Programs that provide care for periods less than 24 hours per day.

A. Employees.

Employees should be screened for tuberculosis within 90 days prior to but no later than two weeks after employment. The screening examination should include a tuberculin test [FN2] and if it is positive, a chest X-ray and, if necessary, other specific tests. Prospective or current employees who are known to have a positive tuberculin reaction or who refuse to have a tuberculin skin test shall receive a chest X-ray to rule out infectious tuberculosis. If infectious tuberculosis is ruled out, no further screening is necessary during their employment unless persistent pulmonary symptoms develop or there is contact with tuberculosis.

B. Children.

1. Foreign-Born.

All foreign-born children should present evidence of a tuberculin skin test [FN3] performed in the United States. This test performed in the United States may have been done at any time after 12 months of age. Any child with a positive tuberculin skin test should be referred to a physician for evaluation. After the initial
evaluation, future periodic screening is not required unless the child develops persistent pulmonary symptoms or there is contact with tuberculosis.

2. Native-Born.

Special screening of children born in the United States is not required unless there is history of contact to tuberculosis or there are symptoms and/or physical findings suggestive of tuberculosis.

If the tuberculin test is negative, no future screening is required unless persistent pulmonary symptoms develop or there is contact with tuberculosis. If the tuberculin skin test is positive, the child should be referred to a physician for evaluation.

[FN1] Tuberculosis screening is not recommended for programs providing care for less than two weeks.

[FN2] The preferred method is the Mantoux technique using 5 TU PPD.

[FN3] The preferred method is the Mantoux technique using 5 TU PPD.

Tenn. Comp. R. & Regs. 1240-04-01-.11 App. C

APPENDIX C

INVENTORY FOR THE FIRST AID KIT

Every child care setting should have a first aid kit stocked with items on the list below. You can buy the supplies for the first aid kit at drug stores or at hospitals or medical supply stores.

Each first aid kit should be large enough to hold all the necessary supplies for first aid in the child care setting. Use a container that will close tightly. It should be stored where adults can reach it easily, but it must be stored out of reach of children. You should arrange the contents so you can reach items easily without emptying the kit. You should be sure that the contents are wrapped tightly and are sanitary. You should restock the kit after each use.

A first aid kit should contain the following items:

- First aid cards
- Commercial cold pack or plastic bag for ice cubes
- Adhesive strip bandages (1/2", 3/4", 1" strips)
- Clean cloth
- Gauze bandages (4"x4", nonstick, sterile)
- Soap

Current through rules effective April 2014.
π Rolled flexible or stretch gauze
π Bandage tape
π Nonstick, sterile pads (different sizes)
π Triangular bandages
π Small splints
π Eye dressing or pad
π Scissors
π Tweezers
π Safety pins
π Thermometer
π Flashlight with fresh batteries
π Disposable latex gloves
π Three-ounce rubber bulb syringe (to rinse out eyes, wounds, etc.)
π Small plastic cup
π Sealed packages of cleansing wipes
π Syrup of ipecac (1-ounce bottle)
π Special items for children with specific health problems (such as bee sting kit or an inhaler for a child with asthma)
π Emergency Telephone Guide
π Emergency contact information (phone numbers of the children’s parents)
π Change for pay phone
π Pen or pencil and note pad

a1. Can be purchased from American Red Cross; give first aid instructions.

This page may be duplicated by individuals and entities for noncommercial purposes.

Current through rules effective April 2014.
Appendix C

American Red Cross Child Care Course

Infant and Child First Aid

Tenn. Comp. R. & Regs. 1240-04-01-.11 App. D

APPENDIX D

MEAL PATTERN/PORTION SIZE REQUIREMENTS

If needed, the caregiver should ask for help in planning meals from a nutritionist or dietitian. For homes on the Child and Adult Care Food Program (CACFP), the DHS staff nutritionist is available. The Department of Health, local colleges, and hospitals are also possible resources.

The minimum amounts of food components to be served are as follows:

**BREAKFAST**

<table>
<thead>
<tr>
<th>Food Components</th>
<th>Age 1 and 2</th>
<th>Age 3-5</th>
<th>Age 6-12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Milk</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>milk, fluid</td>
<td>½ cup</td>
<td>3/4 cup</td>
<td>1 cup</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Vegetables and Fruits</th>
<th>Age 1 and 2</th>
<th>Age 3-5</th>
<th>Age 6-12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vegetable(s) and/or fruit(s)</td>
<td>½ cup</td>
<td>1/2 cup</td>
<td>1/2 cup</td>
</tr>
<tr>
<td>or full-strength vegetable or fruit juice</td>
<td>¼ cup</td>
<td>1/2 cup</td>
<td>1/2 cup</td>
</tr>
<tr>
<td>or an equivalent quantity or any combination</td>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>

Current through rules effective April 2014.
of vegetable(s), fruit(s) and juice

<table>
<thead>
<tr>
<th>Bread and Bread Alternates</th>
<th>⅛ slice</th>
<th>½ slice</th>
<th>1/2 slice</th>
<th>1 slice</th>
</tr>
</thead>
<tbody>
<tr>
<td>bread</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>or cornbread, biscuits, rolls, muffins, etc</td>
<td>⅛ serving</td>
<td>½ serving</td>
<td>1/2 serving</td>
<td>1 serving</td>
</tr>
<tr>
<td>or cold dry cereal</td>
<td>⅛ cup or</td>
<td>½ cup or</td>
<td>1/2 cup or</td>
<td>3/4 cup or</td>
</tr>
<tr>
<td></td>
<td>⅛ oz.</td>
<td>½ oz.</td>
<td>1 oz.</td>
<td></td>
</tr>
<tr>
<td>or cooked cereal</td>
<td>⅛ cup</td>
<td>½ cup</td>
<td>1/2 cup</td>
<td></td>
</tr>
<tr>
<td>or cooked pasta or noodle products</td>
<td>⅛ cup</td>
<td>½ cup</td>
<td>1/2 cup</td>
<td></td>
</tr>
<tr>
<td>or an equivalent quantity of any combination</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of bread/bread alternate</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. Children age 12 and up may be served adult-sized portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities for children age 6 to 12.

2. A cup means a standard 8 ounce measuring cup.

3. Bread, pasta or noodle products, and cereal grains shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain or enriched or fortified.

4. Either volume (cup) or weight (oz.), whichever is less.

**LUNCH OR SUPPER**

Current through rules effective April 2014.
### Food Components

<table>
<thead>
<tr>
<th></th>
<th>Age 1 and 2</th>
<th>Age 3-5</th>
<th>Age 6-12</th>
</tr>
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<tbody>
<tr>
<td><strong>Milk</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>milk, fluid</td>
<td>½ cup</td>
<td>½ cup</td>
<td>1 cup</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Vegetables and Fruits</strong></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Vegetable(s) and/or fruit(s)</td>
<td>¼ cup total</td>
<td>½ cup total</td>
<td>¾ cup total</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Bread and Bread Alternates</strong></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>bread</td>
<td>½ slice</td>
<td>½ slice</td>
<td>1 slice</td>
</tr>
<tr>
<td>or cornbread, biscuits, rolls, muffins, etc.</td>
<td>½ serving</td>
<td>½ serving</td>
<td>1 serving</td>
</tr>
<tr>
<td>or cooked pasta or noodle products</td>
<td>¼ cup</td>
<td>¼ cup</td>
<td>½ cup</td>
</tr>
<tr>
<td>or cooked cereal grains</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>or an equivalent quantity of any combination of bread/bread alternate</td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Meat and Meat Alternates</strong></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>lean meat or poultry or fish</td>
<td>1 oz.</td>
<td>1 ½ oz.</td>
<td>2 oz.</td>
</tr>
<tr>
<td>or cheese</td>
<td>1 oz.</td>
<td>1 ½ oz.</td>
<td>2 oz.</td>
</tr>
<tr>
<td>or eggs</td>
<td>1 egg</td>
<td>1 egg</td>
<td>1 egg</td>
</tr>
<tr>
<td>or cooked dry beans or peas</td>
<td>¼ cup</td>
<td>3/8 cup</td>
<td>½ cup</td>
</tr>
</tbody>
</table>

Current through rules effective April 2014.
or peanut butter, or other nut or seed 2 Tbsp. 3 Tbsp. 4 Tbsp.

butters ½ oz. = 50% ¾ oz. = 50% 1 oz. = 50%

or peanuts or soy nuts

or an equivalent quantity of any combination of meat/meat alternate

(See footnotes from breakfast pattern.)

1. Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full-strength vegetable or fruit juice may be counted to meet not more than ½ of this requirement.

2. Edible portion as served.

3. No more than 50% of the requirement shall be met with nuts or seeds. Nuts or seeds shall be combined with another meat/meat alternate to fulfill the requirement. For purposes of determining combinations, 1 ounce of nuts or seeds is equal to 1 ounce of cooked lean meat, poultry, or fish.

SUPPLEMENTAL FOOD (SNACKS)

Select two of the following four components. Juice may not be served when milk is served as the only other component. Milk and yogurt are too similar in nutritional value to be used together in the same supplement.

<table>
<thead>
<tr>
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Current through rules effective April 2014.
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<td>or full-strength vegetable or fruit juice</td>
<td>½ cup</td>
<td>½ cup</td>
<td>¾ cup</td>
</tr>
<tr>
<td>or an equivalent quantity or any combination of vegetable(s), fruit(s) and juice</td>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>

Bread and Bread Alternates

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<th>½ slice</th>
<th>1 slice</th>
</tr>
</thead>
<tbody>
<tr>
<td>or cornbread, biscuits, rolls, muffins, etc.</td>
<td>½ serving</td>
<td>½ serving</td>
<td>1 serving</td>
</tr>
<tr>
<td>or cold dry cereal</td>
<td>1/3 oz.</td>
<td>½ oz.</td>
<td>1 oz.</td>
</tr>
<tr>
<td>or cooked cereal</td>
<td>¼ cup</td>
<td>¼ cup</td>
<td>½ cup</td>
</tr>
<tr>
<td>or cooked pasta or noodle products</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>or an equivalent quantity of any combination of bread/bread alternate</td>
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</tbody>
</table>

Meat and Meat Alternates

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<th>1 oz.</th>
</tr>
</thead>
<tbody>
<tr>
<td>or cheese</td>
<td>½ oz</td>
<td>½ oz</td>
<td>1 oz</td>
</tr>
</tbody>
</table>
or eggs

½ egg

½ egg

½ egg

or cooked dry beans or peas

1/8 cup

1/8 cup

¼ cup

or peanut butter, or other nut or seed

1 Tbsp.

1 Tbsp.

1 Tbsp.

butters

½ oz.

½ oz.

1 oz.

or peanuts or soy nuts

2 oz. or ¼ cup

2 oz. or ¼ cup

4 oz. or ½ cup

or yogurt, plain, or sweetened and flavored

(See footnotes from Breakfast and Lunch patterns.)

1. Yogurt means commercially coagulated milk products obtained by fermentation that meet milk fat or milk solid requirements to which flavoring foods or ingredients may be added. These products are covered by the FDA’s standard of identity for yogurt, lowfat yogurt, and nonfat yogurt.

Tenn. Comp. R. & Regs. 1240-04-01-.11 App. E

APPENDIX E

ENVIRONMENTAL STANDARDS FOR GROUP CHILD CARE HOMES

(A) Food Sanitation.

The following standards shall be met for food sanitation:

1. Food shall be in sound condition, free from spoilage, filth, or other contamination; food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of hermetically sealed...
1. Containers (home canned food) is prohibited.

2. All milk including dry milk powder shall be from a Grade A pasteurized source.

3. Raw fruits and vegetables shall be washed before use.

4. Stuffings, poultry, and pork products shall be cooked to heat all parts of the food to at least 150°F.

5. If a family style feeding process is used, all leftover food from the eating table shall be discarded. Milk and food used in family style feeding shall not be placed on eating table longer than 15 minutes prior to beginning of meal.

6. Potentially hazardous foods requiring cold storage shall be maintained at 45°F or below, and accurate thermometers shall be kept in the refrigerators. Potentially hazardous food requiring hot storage shall be at an internal temperature of 140°F or above. Frozen foods shall be maintained at a temperature of 0°F or below. Thermometers shall be placed in all freezers.

7. Milk and other potentially hazardous foods shall be kept in the proper temperature ranges and be protected properly, except during necessary periods of preparation.

8. All dry food supplies shall be stored in closed containers and labeled unless its identity is unmistakable. These foods shall be stored in a manner to prevent possible contamination and to allow for proper cleaning of the storage area.

9. All food shall be protected from contamination during storage, preparation, transportation, and serving.

10. No poisonous or toxic materials except those required to maintain sanitary conditions and for sanitation purposes may be used or stored in a food-service area of a facility.

11. Poisonous and toxic materials shall be identified, stored, and used only in such a manner and under such conditions as will not contaminate food or constitute a hazard to the population of a facility.

12. All equipment and utensils including plasticware shall be so designed and fabricated of such material and workmanship as to be smooth, easily cleanable, and durable, under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing.

13. The food-contact surfaces of equipment and utensils shall be easily cleanable, nontoxic, corrosion resistant, and nonabsorbent. Hard maple or equivalently nonabsorbent material may be used for cutting boards, blocks, salad bowls, and baker’s tables.

14. Multi-use equipment shall be constructed and repaired with safe materials, including finishing materials, and they shall be corrosion resistant and nonabsorbent, and they shall be smooth and easily cleanable.

Current through rules effective April 2014.
15. Equipment in use at the time of adoption of this standard that does not fully meet all of the design and fabrication requirements shall be deemed acceptable in that establishment if it is in good repair, capable of being maintained in a sanitary condition, and the food contact surfaces are nontoxic.

16. All eating and drinking utensils shall be thoroughly washed, rinsed, and sanitized after each use with the exception of single-service utensils which shall be discarded following use.

17. Single-service articles shall be made from nontoxic materials and shall be stored, handled, and dispensed in a sanitary manner.

18. All utensils and food-contact surfaces or equipment used in the preparation, transportation, service, display, or storage of potentially hazardous food shall be thoroughly washed, rinsed, and sanitized prior to such use.

19. Cooking surfaces of equipment shall be cleaned at least once a day.

20. All kitchenware and food-contact surfaces of equipment, exclusive of cooking surfaces of equipment, used in the preparation or serving of food or drink, and all food-storage utensils, shall be washed, rinsed, and sanitized after each use.

21. Nonfood contact surfaces of equipment shall be cleaned as often as is necessary to keep equipment free of accumulation of dust, dirt, food particles, and other debris.

22. Cleaned and sanitized utensils and equipment shall be stored at least six inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means.

23. In facilities defined by the Department of Human Services as existing, a twocompartment sink can be used for washing and rinsing utensils, provided an additional container or sink is used for sanitation of the utensils. For facilities defined by the Department of Human Services as new, a three-compartment sink with two drain boards or easily movable dish tables of adequate size shall be required when manual dishwashing procedures are utilized for washing, rinsing, and sanitation of utensils.

Domestic type dishwashing machines are acceptable provided the temperature at the utensil surface is 160°F after the end of one complete cycle. If 160°F is not obtained at the end of one complete cycle, an additional sanitizing rinse for utensils shall be provided in a separate container or sink.

(B) Water Supply.

1. The water supply serving child care facilities shall be provided from a source constructed and operated according to law.

2. There shall be sufficient hot and cold water under pressure to supply the daily needs of a group day care home.

Current through rules effective April 2014.
3. Water from a public supply shall be utilized where available.

4. An approved drinking fountain or individual single service paper cups shall be provided in rooms or adjacent to rooms regularly occupied by the residents.

5. All facilities shall be clean and in good repair.

(C) Sewage Disposal And Plumbing.

1. The facility shall be connected to a public sewage disposal system when such a system is available.

2. The use of a private sewage disposal system shall have the approval of the local health department and it shall be operating satisfactorily.

3. When the private sewage disposal system at an existing facility fails and where a public sewage system is available, the facility shall be connected.

4. Plumbing shall be sized, installed, and maintained according to law. There shall be no cross-connection between the potable water supply and any other water supply.

(D) Solid Waste.

1. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

2. Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction, and maintained in good repair.

3. Storage containers, other than bulk, shall be secured properly to prevent spillage.

4. Garbage deposited in outside bulk storage shall be in fly-tight containers (i.e., plastic bags).

5. All garbage shall be removed from the building daily.

6. Garbage and rubbish shall be collected from the premises at least twice weekly.

7. At facilities where twice weekly collection is not provided, all garbage and rubbish shall be disposed of in a manner acceptable to the health authority having jurisdiction (supplement collection by individual hauling, acceptable burying, etc.).

Current through rules effective April 2014.
8. Combustible rubbish may be burned, provided such burning meets all local and state laws and regulations relative to incinerators, incineration, and air pollution.

(E) Toilets, Handwashing, And Bathing.

1. One-flush toilet and one handwashing facility for every 12 children shall be provided.

2. All facilities shall be approved and in good repair, and clean.

3. A tightly covered container with plastic liner shall be used for diaper disposal and stored inaccessible to children. This container shall be emptied by closing the liner and disposing of it into an outside garbage receptacle.

4. There shall be soap, hot and cold water under pressure, and individual towels provided wherever a handwashing lavatory is located.

5. Personnel shall exercise good handwashing practices following diaper changes, the assistance of children in toilet use, and personal toileting.

6. Proper adult supervision shall be exercised for use of toilet and handwashing facilities.

7. Toilet tissue shall be provided on tissue holder at each commode.

8. Tempered water (90°F - 120°F) shall be provided at all handwashing or bathing facilities used by children.

(F) Buildings.

1. Structure.

   (a) The building foundation, roof, walls, and window frames shall be free of visible cracks and unsealed openings to prevent entrance of insects and rodents.

   (b) Buildings shall be kept clean, in good repair, and painted when necessary.

   (c) Gutters and downspouts shall be kept in good repair.

2. Floors shall be easily cleanable, clean, and in good repair.

3. Walls and ceilings shall be kept clean and in good repair.

Current through rules effective April 2014.

(a) All doors and windows shall be kept clean and in good repair (this includes screens when used).

(b) Window space shall be equal to at least 10 percent of the floor area except in rooms which are air-conditioned and which have artificial light amounting to at least 25 foot candles.

(c) Windows shall be openable unless the room is air-conditioned.

(d) All outside doors and windows used for ventilation shall be screened unless building is air-conditioned.

5. Bedding.

(a) Where provisions are made for staying at a facility overnight, each occupant shall be provided an individual bed with acceptable mattress and waterproof cover, springs, clean linen, and clean cover.

(b) Where children are kept at least six hours but not overnight, individual cots or other approved bedding shall be provided and kept clean and in good repair.

(c) Spacing between mats or cots shall be adequate to promote freedom of movement (approximately two feet between cots and mats).


(a) Natural and/or artificial lighting shall equal at least 25 foot candles in all areas used by children and staff.

(b) Fixtures, shades, blinds, etc., shall be clean and in good repair.


(a) All rooms used by children shall be heated by a system capable of maintaining a temperature of 68°F.

(b) When the outside temperature is 65°F or below, the temperature at child height within the facility shall be no lower than 65°F nor higher than 75°F.

(c) Stoves, hot radiators, steam and hot water pipes, or other objects and electrical outlets in rooms used by the children shall be adequately protected by screens, guards, insulation, or any suitable measures that will

Current through rules effective April 2014.
8. Housekeeping.

(a) All parts of the building shall be maintained in clean condition.

(b) All rooms shall be maintained in an orderly manner.

(G) Insect And Rodent Control.

1. The facility shall be reasonably free from flies, other insects, and breeding sites.

2. Approved screens in good repair shall be provided for all doors and windows used for ventilation purposes.

3. When air-conditioning is used, doors and windows shall be kept closed.

4. The facility shall be free of rodents.

5. There shall be no rodent harborage areas.

6. Proper supervision and caution shall be exercised according to label instructions when applying approved insecticides and rodenticides.

(H) Safety.

1. Pesticides, medicines, polishes, disinfectants, and cleaning compounds shall be stored in a manner approved by the local health authority.

2. Sturdy safety rails shall be provided for ramps and steps where there are three or more risers.

3. Bathtubs, if used, shall be provided with safety strips or mats.

4. Glass in hazardous locations in the facility shall be shielded when safety glass is not used. Broken glass objects shall not be permitted in any part of the building or on grounds.

5. All furniture shall be of durable construction, free of sharp projecting corners or surfaces and kept in good
6. Grounds shall be kept clean and free of hazards that are likely to cause falls. Grounds shall be kept free of excess growth of grass or weeds.

7. Buildings and grounds shall be free of any unprotected, abandoned well, cistern, refrigerator, or similar hazards.

8. Fencing or other acceptable barriers shall be provided for hazardous drainage ditches, cliffs, bluffs, or other similar hazards.

9. Adequate barriers, such as fencing, shall be provided and supervision exercised to prevent children from running on driveways, streets, or highways where a traffic hazard exists.

10. Grounds shall have adequate drainage.

(I) Swimming Pool.

1. Facilities shall comply with state law and regulations for public swimming pools.

2. Facilities utilizing a swimming pool on-site shall have an approved lifeguard on duty or twice the number of adults required in the home. Facilities using an off-site pool shall be assured of the number of lifeguards required on duty.

3. A fence four feet high shall surround the pool.

Tenn. Comp. R. & Regs. 1240-04-01-.11 App. F

APPENDIX F

FIRE SAFETY INSPECTION REPORT NEW AND EXISTING CHILD DAY CARE CENTERS AND/OR GROUP CHILD CARE HOMES LICENSED BY THE TENNESSEE DEPARTMENT OF HUMAN SERVICES

Name of Facility ___________________ Director _________________

Street Address ___________________ Telephone( _____ ) _____________

Current through rules effective April 2014.

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>If the building is wood frame construction, is it restricted to two stories in height?</td>
<td>NEW LSC 10-7.1.6; EXISTING 11-7.1.6</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Does each building used for day care center purposes have access to two out-side exits?</td>
<td>NEW LSC 10-7.2.4.1; EXISTING 11-7.2.4.1</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Is the building free of any dead end corridors or spaces (maximum of 20 ft distance or less)?</td>
<td>NEW LSC 10-7.2.5.1; EXISTING 11-7.2.6.1 AND 5-5.3.5</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>If part of the building is used for purposes not under control of the day care operator, are all rooms and spaces used for day care purposes separated from the rest of the building by one-hour fire rated walls and one-hour “B” label door assemblies to include rated steel frames with self-closing units and positive latching devices?</td>
<td>NEW LSC 10-7.1.2; EXISTING 11-7.1.2</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Is the second floor and/or basement separated from the main floor with one-hour rated construction including at least one-hour “B” label door assemblies (rated frames, closers, and positive latching)?</td>
<td>NEW LSC 10-7.3.1; EXISTING 11-7.3.1</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Does the facility have an electrically supervised, manually operated fire alarm device which is audible throughout the building?</td>
<td>NEW LSC 10-7.3.4, EXISTING 11-7.3.4</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>If exit doors are located within a required rated enclosure, do the doors swing in the direction of egress?</td>
<td>NEW LSC 5-2.1.4.1; EXISTING 5-2.1.4.1</td>
<td></td>
</tr>
</tbody>
</table>

Current through rules effective April 2014.
<table>
<thead>
<tr>
<th>Number</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.</td>
<td>Are smoke detectors installed in accordance with Section 7-6 of the Life Safety Code? NEW LSC 10-7.3.4.5; EXISTING 11-7.3.4.5</td>
</tr>
<tr>
<td>9.</td>
<td>Are all fuel burning space heaters, floor furnaces or wall type electrical heaters provided with a protective screen and anchored securely (portable space heaters are not acceptable)? NEW LSC 10-7.5.2; EXISTING 11-7.5.2</td>
</tr>
<tr>
<td>10.</td>
<td>Is the building free of any unvented fuel burning heaters? NEW LSC 10-7.5.2.2; EXISTING 11-7.5.2</td>
</tr>
<tr>
<td>11.</td>
<td>Are all hallways and other means of exits kept adequately lighted at all times when the building is occupied? NEW LSC 10-7.2.8; EXISTING 11-7.2.8</td>
</tr>
<tr>
<td>12.</td>
<td>Are all corridor doors at least 20 minute rated with 20 minute rated frames? (If all classrooms have a door directly to the outside, this requirement may be omitted.) NEW LSC 10-3.6.1; EXISTING 11-3.6.1</td>
</tr>
<tr>
<td>13.</td>
<td>Are approved exit lights installed where applicable? (Over stairwell doors, in corridors, exit doors, gym, auditorium, etc.) NEW LSC10-7.2.10; EXISTING 11-7.2.10</td>
</tr>
<tr>
<td>14.</td>
<td>Unless classroom doors open directly to the outside, are corridors one hour rated? NEW LSC 10-3.6.1; EXISTING 11-3.6.1</td>
</tr>
<tr>
<td>15.</td>
<td>Does each classroom or any other room used for sleeping purposes have a window which can be opened to provide for emergency evacuation? (Not applicable if room has a door directly to the outside) NEW LSC 10-7.2.11.4; EXISTING 11-7.2.11.4, except in the 1985 LSC 101</td>
</tr>
<tr>
<td>16.</td>
<td>Are all doors to hazardous areas separated with 45 minute “C” label fire door assemblies? (Storage rooms, furnace rooms, etc.) NEW LSC 10-7.3.2; EXISTING 11-7.3.2</td>
</tr>
</tbody>
</table>

Current through rules effective April 2014.
17. Does the hot water heater have a safety relief valve installed? SMC of SBCCI 304.3.3

18. Is the garage, storage room or basement area free of flammable or combustible liquids? NEW AND EXISTING LSC 31-1.5

19. Does this facility have an unannounced fire drill monthly? NEW AND EXISTING LSC 31-3.4

20. Are all employees informed of their duties for fire drills NEW AND EXISTING LSC 31-3.4.1

21. Does interior finish have the required flamespread rating? NEW LSC 10-7.3.3.1; EXISTING 11-7.3.3.1

22. Is the building safe from any electrical hazards such as overloaded electrical panel, excessive cords, or frayed wiring? NEW LSC 11-7.5.1.1; EXISTING 11-7.5.1.1

23. Are all ceilings, regardless of type, constructed with noncombustible material?

24. Are hazardous areas properly protected? NEW LSC 10-7.3.2; EXISTING 11-7.3.2

25. Do commercial type cooking appliances have approved fire extinguishing systems installed as required by NFPA 96? NEW LSC 10-7.3.2.1; EXISTING 11-7.3.2

Current through rules effective April 2014.
26. Is emergency lighting provided throughout egress passageways? NEW LSC 10-7.2.9; EXISTING 11-7.2.9

27. Are closet door latches designed so that children can open the door from inside the closet? NEW LSC 10-7.2.11.1; EXISTING 11-7.2.11.1

28. Are bathroom door locks designed to permit opening of the locked door from the outside in an emergency? Are the opening devices readily accessible to the staff? NEW LSC 10-7.2.11.2; EXISTING 11-7.2.11.2

29. Are special protective receptacle covers installed in wall receptacles in areas occupied by children under 5 years of age? NEW LSC 10-7.5.1.2; EXISTING 11-7.5.1.2

Inspector shall check either item (a) or (b) below:

(a) Facility acceptable ........................................................................................................... ______

(b) Facility not acceptable .................................................................................................... ______

(c) If facility is not acceptable, list all deficiencies on a Part 11 Inspection Report form to accompany this report. State at the bottom of the Part II Report that the facility will not be approved or occupied until all deficiencies have been corrected.

__________________________  __________________________
SIGNATURE OF INSPECTOR  TITLE OF INSPECTOR

Current through rules effective April 2014.
Drop-in Child Care Center Regulations: Page 68-106

(1) Scope of Services. These rules are applicable to “drop-in centers” as defined in T.C.A. §71-3-501, et. seq. and these rules.

(2) Purpose of Licensing. The purpose of licensing is the protection of children. These minimum requirements are intended to help promote the adequate health, safety, and supervision of children while in a group care setting.

(3) Basis For Approval of a License.

(a) The approval and continuance of a license for a drop-in center is based upon the following criteria:

1. The safety, welfare and best interests of the children in care;

2. The capability, training and character of the persons providing or supervising the care of children; and the use of such judgment by a caregiver in the performance of any of the caregiver’s duties as would be reasonably necessary to prevent injury, harm or the threat of harm to any child in care;

3. Evidence:

   (i) That the expected performance of the caregivers, supervisors or management of the child care agency seeking initial licensure or renewal of licensure will be such as to protect children in care from injury, harm or the threat of injury or harm; or

   (ii) During licensure, that the actual performance of any of the duties of the caregivers, supervisors or management of a licensed child care agency demonstrates or has demonstrated a level of judgment that a reasonable person would exercise or would have exercised, under existing or under reasonably foreseeable circumstances, that would prevent or would have prevented injury, harm, or the threat of injury or harm, to any child in care;

4. The quality of the methods of care and instruction provided for the children;
5. The suitability of the facilities provided for the care of the children; and

6. The adequacy of the methods of administration, the management of the child care agency, and the agency’s personnel policies, as they relate to the care of children.

(b) General Requirements.

1. The license applies only to the entity to which it is issued. The license is not transferable.

2. The license applies only to the physical location approved for the operation of the drop-in center. A change in the location of the drop-in center automatically voids the license.

3. Compliance with Other Legal Requirements.

   (i) In addition to these requirements, it is the responsibility of the applicant/licensee to comply with all applicable local ordinances, including zoning, fire, and environmental ordinances.

   (ii) The Department will not intervene on behalf of the child care agency with other Federal, State or local agencies having regulatory control over any other aspects of compliance by the child care agency with laws, regulations or ordinances that may be necessary to become licensed by the Department. The child care agency shall have full responsibility for resolving all issues necessary to obtain approvals of such agencies necessary for the child care agency to receive a license from the Department.

4. Issuance and maintenance of a license is based upon achievement in meeting and maintaining compliance with all requirements set forth in these rules.

5. It is the responsibility of the applicant/licensee to obtain and maintain compliance with all applicable requirements contained in these regulations. Parents/guardians may not waive compliance with any rule, or otherwise authorize the applicant/licensee to not comply with any rule, unless specifically provided for within the provisions of the rule.

(c) Falsification of any information, records or other documents and/or an intentional failure to provide any information, records or other documents required for a license, for participation in, or regulation by, any State or Federal child care services program, shall be the basis for civil penalties, probation, and/or the denial, suspension, or revocation of a license, as appropriate, in accordance with the provisions of T.C.A. §§ 71-3-501 et seq., this Chapter and Chapter 1240-4-5.

(d) Specifications of the License.

1. All programs shall operate at the address stated on the license, and within the licensed capacity set by the Department.

Current through rules effective April 2014.
2. All programs shall operate within any restrictions stated on the license or pursuant to any orders of the Department or the Child Care Agency Board of Review.

Tenn. Comp. R. & Regs. 1240-04-02-.02

1240-04-02-.02. DEFINITIONS.

(1) Age Appropriate: Materials and practices which are designed to provide safe, appropriate care in accordance with the biological needs and the developmental age of the child.

(2) Annual License. An annual permit issued by the Department to a child care agency, authorizing the licensee to provide child care in accordance with provisions of the license, the law, and the rules and policies of the Department. Issuance of a license is not an endorsement of child care methods or of an agency’s operational philosophy. A license is not transferable from one location to another or from one licensee/operator to another. The license may be revoked at any time upon thirty (30) days notice to the licensee; provided, however, if the health, safety, or welfare of the children in care imperatively requires it, the license may be suspended immediately.

(3) Approval. Child care agencies operated by a public entity receive an approval rather than a license. For purposes of these rules, a “public entity” includes the State of Tennessee or any of its political subdivisions or any agency of the Federal government. An approved agency shall meet the same requirements and is evaluated in the same manner as a licensed agency.

(4) Auxiliary Staff. Full and part-time employees of the agency who do not provide caregiving services to the children enrolled in the agency.

(5) Caregiver. Any individual, including the primary caregiver, responsible, or who at any time may become responsible, for meeting the supervision, protection, and basic needs of the child.

(6) Casual Care. Consists of places or facilities operated by any person or entity that provide child care, at the same time, for a minimum of five (5) children, but less than fifteen (15) children, who are not related to the primary caregiver, during short periods of time that do not exceed ten (10) hours per week or six (6) hours per day for any individual child while the parents or other custodians of the children are engaged in short-term activities, not including employment of the parent or other custodian of the child.

(7) Child or Children. A person or persons under eighteen (18) years of age.

(8) Child Care. As defined by T.C.A. § 71-3-501, the provision of supervision, protection and, at a minimum, meeting the basic needs of children who are not related to the licensee, for three (3) or more hours a day, but less than twenty-four (24) hours a day.

(9) “Child care agency” or “agency”

(a) Means a place or facility, regardless of whether it is currently licensed, that is operated as a “family child care agency”, “family child care facility”, or “family child care home”.
care home”, a “group child care home”, a “child care center”, or a “drop-in center”, as those terms are defined in T.C.A.§ 71-3-501.

(b) The reference to “child care agency” or “agency” in this Chapter shall be deemed to reference a “drop-in center” as defined in T.C.A. 71-3-501(8), unless specifically stated otherwise, or unless the context requires otherwise.

(c) A “drop-in center” differs from “casual care” in that fifteen (15) or more children are cared for at the same time in a “drop-in center” as defined in 1240-04-02-.02(15), while “casual care” refers to the care of fewer than fifteen (15) children who are cared for at the same time as defined in paragraph 1240-04-02-.02(6).

(d) A “drop-in center” differs from a “family child care home,” a “group child care home,” and a “child care center,” in that a “drop-in center” is designed to provide short-term child care, not to exceed the limitations specified in paragraph (15) below. Child care provided in the other three (3) specified categories of child care agencies is not subject to the limitations of paragraph (15).

(e) Reference to a “child care agency” or “agency” in these rules also applies to places or entities of an agency seeking or having received an approval under paragraph (3).

(10) Child Care System. The existence of any drop-in centers approved or licensed and used by a licensed and incorporated by any child care agency in its work; or the existence of two (2) or more facilities used for child care purposes which facilities are under the ownership, administration or control of any individual(s), corporation, partnership, cooperative, or other public or private entity of any kind. Each individual agency within such child care system must be individually licensed in accordance with T.C.A. § 71-3-501 et seq.


(12) Day Care. Synonymous with the definition of “child care.”

(13) Department (DHS). The Tennessee Department of Human Services and its authorized representatives.

(14) Director. The person with overall responsibility for the licensed drop-in child care program.

(15) Drop-In Child Care Center.

(a) A place or facility operated by any person or entity providing child care for fifteen (15) or more children at the same time, none of whom are related to the primary caregiver, for short periods of time as follows:

1. Workweek Care.

   (i) Provided during regular working hours, Monday through Friday, 6:00 a.m. to 6:00 p.m.
(ii) No individual child may be in child care for more than seven (7) hours per day or fourteen (14) hours per week, exclusive of snow days.

2. Evening and Weekend Care.

(i) Provided weekday evenings after 6:00 p.m. and weekends beginning on Friday at 6:00 p.m. and ending on Sunday at 10:00 p.m.

(ii) An individual child may receive care in excess of seven (7) hours per day, but may not receive care in excess of a total of twenty (20) hours per week, exclusive of snow days.

3. Exception for Snow Days. Drop-in care for school age children may exceed the maximum hours listed in parts 1 and 2, above, during snow days.

(b) Notwithstanding any other provision of this chapter to the contrary, drop-in centers operated by not-for-profit organizations that provide child care without compensation for no more than two (2) hours per day with a maximum of ten (10) hours per week, while the parent or other custodian is engaged in short-term activities on the premises of the organization, shall register as providing “casual care” and shall not be deemed to be, or regulated as, a drop-in center.

(16) Enrollment. The process of accepting children for care and meeting rules applicable to enrollment.

(17) Group. A specific number of children within a defined age range, assigned to specific staff in an assigned space, which is divided from the space of other groups by a recognizable barrier to define limits and to reduce distraction.

(18) Infant. A child who is six (6) weeks through fifteen (15) months of age. No unrelated child of the licensee who is under six (6) weeks of age shall be accepted into care. Children related to the licensee who are under six (6) weeks of age must be kept in a separate space from children enrolled in the child care agency.

(19) Illegal Operator. An individual or entity who is operating a child care agency without a license or approval pursuant to the provisions of T.C.A. §71-3-501 et seq. or these rules.

(20) Licensee. The person, agency, group or entity to whom a license to operate a child care center is issued and who shall assume ultimate legal and administrative responsibility for the child care center. References to a licensee in the requirements also apply to operators of an agency seeking or having received an approval.

(21) Licensed capacity. The designated maximum number of children permitted in a facility at any one period of time as determined by the Department based upon available space, age of children, adult: child ratios, and group size. Licensed capacity and ages served shall be designated on the license.

(22) Owner. The individual(s), corporation, partnership, cooperative, or other private or public entity of any kind, or any combination thereof, who or which, through their authorized representative(s), assumes, or is
(23) Parent. A biological, adoptive or foster parent, guardian, legal custodian or relative caregiver who has primary responsibility for a child.

(24) Pre-school Child. A child who is six (6) weeks through five (5) years of age, not in kindergarten. No child unrelated to the licensee who is under six (6) weeks of age shall be accepted into care.

(25) Related Children. The biological or adoptive children of the licensee, step-children, grandchildren, step-grandchildren, siblings of the whole or half-blood, step-siblings, nieces, nephews or foster children of the primary caregiver.

(26) School-Age Child. A child who is five (5) years of age and enrolled in kindergarten or a higher grade.

(27) Snow Day. For purposes of this chapter, a “snow day” is defined as a day when the affected child’s school is officially closed by the school system due to weather, teacher in-service, etc.

(28) Staff. Full and part-time caregivers and other employees of any type.

(29) Substitute. Paid or unpaid persons who are temporary replacements for regular staff.

(30) Supervision. When children are not within the direct sight and sound of an adult, the term “supervision” includes the following requirements:

(a) Children six (6) weeks of age through nine (9) years of age: The adult must be able to hear the child at all times, must be able to see the child with a quick glance, and must be able to physically respond immediately.

(b) Exception during mealtime: An adult must be in the direct sight and sound of children ages six (6) weeks through five (5) years, not in kindergarten, while the child is eating.

(c) Children ten (10) years of age and older: The adult shall know the whereabouts and activities of the children at all times and must be able to physically respond immediately.

(d) Helper devices such as mirrors, electronic sound monitors, etc. may be used as appropriate to meet these requirements.

(31) Temporary License. A permit issued by the Department to a new child care agency authorizing the licensee to begin child care operations. It is valid, unless suspended, for one-hundred and twenty (120) days or until the application for an annual license is finally determined, and is issued upon application by the operator only if the staff and facility do not present any apparent hazards to children, and if the applicant meets the requirements of 1240-04-02-.03(7) and if the facility has received fire safety and environmental sanitation approval. If, at the end of the one-hundred and twenty (120) day period, evidence is provided by the applicant/licensee that such child care agency is suitable and properly managed, that the agency is in...
compliance with these rules and has the apparent ability to maintain compliance, the Department will issue an annual license to the child care agency.

(32) Toddler. A child who is twelve (12) months of age through thirty (30) months of age.

(33) Volunteer. A person who provides services for the licensee without payment and who is used to supplement, rather than substitute for, the regular staff or substitutes.

Tenn. Comp. R. & Regs. 1240-04-02-.03

1240-04-02-.03. APPLICATION PROCEDURES.

(1) Applications for a license are obtained through the local county office of the Tennessee Department of Human Services.

(2) Pre-Licensure Orientation Training: The Department will require pre-application training as set forth in 1240-04-02-.05(4)(b) for both the owner and director. In the case of a program that is governed by a board of directors or trustees or is controlled by another public or private entity, this training shall be attended by a designee who is responsible, in addition to the on-site director, for the day-to-day management of the program.

(3) A complete application for a license must be submitted to the Department and signed by the prospective licensee.

(4) The owner or prospective licensee must provide a federal tax identification number to identify the child care agency. The Department shall not accept individual social security numbers for such purposes.

(5) Application Fees. The application fees for drop-in child care centers are as follows:

   (a) Annual Fee: $200.00

   (b) Biennial Fee: $250.00

   (c) Triennial Fee: $300.00

(6) Receipt of an application begins the evaluation process, which is completed with the issuance or denial of an annual license. This process includes:

   (a) At least two (2) visits by a Department Program Evaluator to the drop-in child care center, one of which shall be unannounced;

   (b) Review of agency records; and

Current through rules effective April 2014.
(c) Requests for information related to licensure requirements.

(7) Upon satisfaction of the following minimum requirements, a temporary license may be issued if:

(a) The Director’s qualifications meet the requirements of Chapter 1240-04-02-.05(4);

(b) Three (3) satisfactory references for the Director are verified;

(c) Physical facilities receive fire safety and environmental approval;

(d) The applicant has demonstrated that the applicant and the personnel who will care for the children are capable in all substantial respects to provide appropriate group care for children;

(e) The applicant has reasonably demonstrated that the applicant has the ability and intent to comply and maintain compliance with the licensing law and regulations; and

(f) The Department has determined, after appropriate inspection, that the site is suitable for child care activities and does not endanger the welfare or safety of children.

(g) No temporary or annual license shall issue unless and until the Department determines, in accordance with the provisions of this Chapter and Department policy that the applicant has complied with the provisions of this paragraph (7) and any other applicable provisions of the law or this Chapter.

(8) Right of Inspection.

(a) Receipt of an application and/or acceptance of a license constitutes agreement to allow the Department:

1. The right of entry, without notice, into the child care agency for the purpose of inspection for compliance with these rules; and

2. The right to observe and account for all children enrolled or present in the drop-in child care center, to determine the status of their health, safety and welfare, and the right to inspect and copy all records related to compliance with these rules.

(b) Refusal to allow entry and/or refusal to allow the Department to inspect the premises or relevant records for compliance with these rules or to observe and account for all children enrolled or present in the drop-in center, to determine the status of their health, safety and welfare, is a basis, by itself, for the summary suspension, revocation, and/or denial of the license and any additional remedies set forth in T.C.A. § 71-3-508.

Current through rules effective April 2014.
(9) Upon issuance of an annual license, the licensee shall maintain compliance with the requirements of this Chapter throughout the licensing period.

(10) Re-evaluation.

(a) The Department shall notify the licensee of the re-evaluation of the agency for a renewal of its license before the expiration of the current license.

(b) Application for renewal of the license must be made before the expiration of the existing license, or the existing license will expire upon the expiration date of the licensing period established by the license.

(c) Applicants for the renewal of a license are evaluated in the same manner and must comply with the same requirements as applicants for a new license.

(11) Immediately upon receipt of the license, the licensee shall post near the main entrance and in a conspicuous location:

(a) The current license;

(b) The Department of Human Services’ toll-free Child Care Complaint Hotline phone number; and

(c) Any other documents as directed by the Department.

(12) The licensing procedures for a drop-in center are also subject to the requirements of Chapter 1240-4-5, Procedures Affecting Licenses of Child Care Agencies.
4. Number and type of meals and snacks to be served, if applicable;

5. Admission requirements and enrollment procedures; and

6. Provisions for providing or obtaining emergency medical care.

(b) If, after being licensed, a licensee wishes to change the scope or type of service offered to children and families, an amended statement shall be filed with the Department for approval prior to implementation.

(2) Organizational Structure.

(a) The organization of every drop-in child care center shall be such that legal and administrative responsibility is clearly defined, and the licensee must provide any and all documentation reasonably required by the Department to validate such legal and administrative responsibility.

(b) Every drop-in child care center shall have an on site director.

Exception: Following the issuance of an annual license, a drop-in child care center may operate without an on-site director, as deemed appropriate by the Department and within any restrictions that may be established by the Department, for a period of no more than sixty (60) days total within the licensing year.

(3) Liability and Medical Payment Insurance Coverage.

(a) General liability and medical payment insurance coverage shall be maintained on the operations of the child care agency’s facilities.

(b) General liability coverage on the operations of the child care agency’s facilities shall be maintained in a minimum amount of Five Hundred Thousand Dollars ($500,000) per occurrence and Five Hundred Thousand Dollars ($500,000) general aggregate coverage.

(c) Medical payment coverage shall be maintained in the minimum amount of Five Thousand Dollars ($5,000) for injuries to children resulting from the operation of the child care agency.

(d) The requirements of this paragraph shall not apply to an agency that is under the direct management of a self-insured administrative department of the state, a county or a municipality or any combination of those three (3) or that has, or whose parent entity has, a self-insurance program that provides, as determined by the Department, the coverage and the liability limits required by these rules.

(e) Documentation that the necessary insurance is in effect, or that the administrative department or other entity is self-insured, shall be maintained in the records of the child care agency and shall be available for review and copying by the Department’s licensing staff.
(4) Records and Reports.

The following records shall be maintained in an organized manner at the drop-in center and made available to the Department upon request:

(a) Children’s Records.

1. Each child shall have a record containing the following information:

   (i) A current information form which includes the child’s name, date of birth, name of parent(s), child’s and parents’ home address(es), emergency contact numbers (e.g., home, work, cell phone, pager, etc., as applicable), and the name and address (home and business or school) of a responsible person to contact in an emergency if the parent(s) cannot be located promptly;

   (ii) Name, address, and telephone number of a physician to call in case of an emergency;

   (iii) Written consent of parent(s) regarding emergency medical care;

   (iv) A child release plan stating to whom the child shall be released and a clear policy concerning the release of child(ren) to anyone whose behavior may place the child(ren) in immediate risk;

   (v) A signed statement from the parent or guardian verifying that the child or children are in good health and current with immunizations; and

   (vi) Daily attendance records for each child.

2. A child’s records shall be kept by the drop-in center for one (1) year following the child’s being disenrolled from the center.

(b) Staff Records.

1. The following information shall be secured when employing staff, maintained in each employee’s record, updated as changes occur, and shall be maintained in the individual employment record for at least one (1) year following the separation of the employee from the agency:

   (i) Name, birth date, social security number, address, and telephone number of all staff members, including volunteers, and a contact for each staff member in an emergency;

   (ii) Educational background and educational experiences, including dates and places of diplomas received, and conferences, courses, and workshops attended in the preceding year;

Current through rules effective April 2014.
(iii) Health records as directed under subchapter 1240-02-08(11), Health and Safety;

(iv) At least three (3) written references, with documented interviews of each reference, on each new staff member;

(v) Written, verified record of employment;

(vi) Date of employment and date of separation from the agency; and

(vii) Daily attendance (including time in/out) of staff members.

(viii) Verification of the status check on the Department of Health’s Vulnerable Persons Registry required by Rule 1240-04-02-.05(e)4.

2. Professional credentials of staff shall be available to parents.

(5) Right to Privacy/Confidentiality.

The licensee and agency staff shall not disclose or knowingly permit the use by other persons of any information concerning a child or family except as required by law or regulation or as may be necessary to be disclosed to public authorities in the performance of their duties and which may be necessary for the health, safety, or welfare of any child enrolled at the center or his or her family.

(6) Admission of Children and Communication with Parents.

(a) Before accepting a child for care, the parent or guardian shall register the child by providing:

1. All the information in paragraph (4)(a) above; and

2. A statement regarding the estimated amount of time that the parent anticipates that the child will be in attendance at the drop-in center.

(b) A child shall be at least six (6) weeks old before being accepted in a drop-in center.

(c) No child shall be accepted into child care in excess of the maximum allowable hours as set forth in paragraph 1240-04-02-.02(15). The drop-in center shall maintain and make available to the Department attendance records verifying that no child receives care in excess of the maximum allowable hours.

(d) The drop-in center shall make the licensure rules for drop-in care available to parents of children
(e) During normal operating hours, parents shall be permitted immediate access to their children, and ready access to all areas of the child care facility shall be granted Department representatives and inspection authorities (i.e., fire safety, sanitation, and health).

(f) Parents shall be informed in advance of the child’s removal from the premises except in cases of emergencies or removal by the Department of Children’s Services or a law enforcement agency pursuant to law.

(7) Care of School-Age Children on Snow Days.

(a) A drop-in center may not accept any school-age child for care unless:

1. The Department has previously determined that the center is an appropriate and safe location for school-age children on snow days.

2. The drop-in center applied for, and was granted, a license which specifically authorizes the licensee to provide such care. Any such authorization to provide such care shall be noted on the license.

(b) The Department shall set a limit on the number of school-age children that a center may accept at any given time based upon the amount of space that the center has available.

(c) No child thirteen (13) years of age or older may be cared for by a drop-in center on a snow day.

(d) In order to assure that the center is capable of providing safe care to the additional numbers of children needing care during school closings, the center shall annually provide the Department with an updated list of trained caregivers and staff available for emergency call duty.

(8) Transportation.

Transportation that is under the direction or control of the drop-in center, including contracted transportation services, is prohibited.

Tenn. Comp. R. & Regs. 1240-04-02-.05

1240-04-02-.05. STAFF REQUIREMENTS.

(1) Responsibility for Staff.

(a) The applicant/licensee shall be responsible for selecting individuals of suitable character to work with...
The director shall be responsible for the daily supervision of the staff and program.

(c) An appropriate staff member meeting the qualifications for a “caregiver” at the drop-in center shall be designated to be in charge in the absence of the director.

(d) The applicant/licensee and the director shall be responsible for ensuring that the behavior of staff reflects knowledge and understanding of the special needs, growth, and developmental patterns of young children, as well as an understanding of appropriate activities. Such behavior shall be evaluated in staff’s performance evaluations.

(e) Criminal History Background Review and Abuse Registry Requirements; Exclusions from Contact with Children, Waivers from Exclusions; Appeals of Waiver Denials.

1. Individuals Requiring a Fingerprint Criminal History Background Review and Abuse (Vulnerable Persons) Registry Check:

(i) Any individual applying to work as a paid employee, director or manager of the child care agency in a position that will require or allow the individual to have contact with children at any time;

(ii) Any individual applying to work as a new substitute and who is expected to offer, or who provides, at least thirty-six (36) hours of substitute services to the agency in any calendar year;

(iii) Any individual applying for a license to operate a child care agency that is not the renewal of an existing license, or any individual who otherwise seeks to be an operator, as defined by the rules of the Department, of a child care agency, as defined in T.C.A. § 71-3-501, and who will, in the course of their role as licensee, have significant contact, as determined by the Department, with the children in care. For purposes of this paragraph, “operator” shall be an individual who is an owner or administrator of a child care agency or child care system;

(iv) Residents of a New Agency. Any individual who is a resident of the child care agency and who is fifteen (15) years of age or older upon the date the agency receives its initial temporary license or, if the agency has been issued an annual license, then upon the date the agency received its annual license; and

(v) New Residents of an Existing Agency. Any individual who is fifteen (15) years of age or older upon moving into a licensed/approved child care agency.

2. Pending outcome of the criminal history background review as described in this paragraph, and the outcome of the review of the individual’s status on the Department of Health’s Vulnerable Persons Registry, the applicant for employment or a substitute or volunteer position, or for a license to operate, shall be conditional and shall be dependent upon the results of these background checks.

3. Requirements for Submission of a Fingerprint Sample.

Current through rules effective April 2014.
(i) Criminal History Disclosure Form. Individuals identified in subparagraph (a) shall complete and sign the Criminal History Disclosure Form provided by the Department.

(I) The failure to properly complete all sections of the Criminal History Disclosure Form shall result in the individual being prohibited from working, substituting, residing in or acting as a licensee for the child care agency.

(II) The failure to disclose all criminal history information may result in the individual being:

I. Excluded from working, directing, managing, operating, substituting, volunteering, residing in or acting as a licensee in any child care agency licensed by the Department; and

II. Referred for criminal prosecution pursuant to the provisions of state law.

(ii) Fingerprint Sample. The child care agency shall be responsible for obtaining and submitting the fingerprint sample of any person required by this Chapter in the form and manner directed by the Department:

(I) Within ten (10) calendar days of the first day of beginning employment or substitute status;

(II) Within ten (10) calendar days of the license application or seeking operator status;

(III) Within ten (10) calendar days of the application for an initial license for a facility in which the person resides; or

(IV) Within ten (10) calendar days after the resident moves into the child care facility.

(iii) Unless otherwise notified by the Department, the child care agency shall be responsible for all costs associated with obtaining the fingerprint sample, and the Department will pay for the costs of the criminal background check by the Tennessee Bureau of Investigation.

4. Vulnerable Persons Registry. The child care agency shall be responsible for determining, within the same time periods as set forth in subpart (e)3(ii) above, the status on the Department of Health’s Vulnerable Persons Registry of any individual who is required by part 1 above to undergo a criminal history background review. Verification of such status check shall be maintained in the employee’s record pursuant to the requirements set forth in 1240-04-02-.04(4)(b).

(f) Exclusion of Persons from Contact with Children.

1. Prohibited Criminal or Abuse or Neglect History.

Current through rules effective April 2014.
(i) No individual with a prohibited criminal history as defined below, regardless of whether such individual is required by these rules to undergo a criminal history background review, may work, substitute or volunteer in a child care agency, or be a resident, licensee, director or manager of a child care agency who has access to children, or be an operator who has significant contact with children or otherwise have unrestricted access to children in any manner whatsoever.

(ii) An individual shall be immediately and automatically excluded from child care or any contact whatsoever with children, as described above, if the individual’s criminal history includes:

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

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

(III) Any of the circumstances in items (I) or (II) above involves any of the following criminal offenses:

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

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

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

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

(I) Reveals a prohibited or potentially prohibited criminal history on the Criminal History Disclosure Form; or

(II) Is listed on the Department of Health’s Vulnerable Persons Registry; and/or

(III) Is known to the management or licensee of a child care agency as a perpetrator of child abuse or child sexual abuse or to have a prohibited criminal history, or who is identified to the child care agency’s management or licensee by the Department of Human Services or by the Department of Children’s Services as a validated perpetrator of abuse of a child based upon an investigation conducted by the Department of Children’s Services or by the child protective services agency of any other state; or, who at anytime is identified by any person or entity to the child care agency’s management or licensee and is confirmed by the Department of Human Services as having a prohibited criminal history.

(iv) Exclusion from driving duties. An individual with a prohibited history as set forth below shall be

Current through rules effective April 2014.
immediately and automatically excluded from providing driving duties on behalf of the child care agency if the individual:

(I) Has a pending criminal action (including warrants, indictments, presentments, etc.), is completing a pretrial diversion, or has been convicted of or pled guilty to any offense involving the use of a motor vehicle while under the influence of any intoxicant, which constitutes a violation of T.C.A. §§ 39-13-213; 55-10-101; 55-10-102 or 55-10-401; or

(II) Has been convicted of or pled guilty to any felony involving the use of a motor vehicle while under the influence of any intoxicant. In such case, the individual shall not be employed or otherwise serve as a driver for a child care agency for a period of five (5) years from the date of the conviction or guilty plea.

(v) Exclusions for Child Neglect. An individual who has been identified by the Department of Children’s Services as having neglected a child based on an investigation conducted by that Department or any child protective services agency of any state, and who has not been criminally charged or convicted or pled guilty or no-contest as stated above, shall be supervised by another adult while providing care for children.

2. The child care agency shall immediately, upon receipt, review the results of the criminal history background review and Vulnerable Persons Registry and shall immediately exclude any individual with a prohibited history as directed by the Department.

3. Failure to exclude individuals with a criminal history or abuse or neglect finding.

Failure to immediately exclude any individual subject to exclusion or supervision pursuant to this subchapter and T.C.A. § 71-3-507, as directed by the Department, may result in the immediate suspension, denial or revocation of the child care agency’s license.

(g) Waivers from Exclusions Due to Criminal or Abuse or Neglect History.

1. Any person who is excluded or whose license is denied based upon the results of the criminal history background review, or based upon any other determination, may request in writing to the Department’s Director of Licensing within ten (10) calendar days of receiving notice of such exclusion or denial a waiver from these automatic exclusion requirements.

2. Excluded individuals, prior to receiving official notice of the exclusion or denial from the Department, may also make a written request for a waiver by letter or directly on the Department’s Criminal History Disclosure Form.

3. Requests for a waiver shall state the basis for the request, including any extenuating or mitigating circumstances that would, in the person’s opinion, clearly warrant an exemption from the exclusion. Any documentary evidence may also be submitted with the request.

4. Requests for waivers shall be heard by an advisory committee and reviewed by the Department in
5. Any person who is excluded from providing care or services to children under any provisions of this subchapter shall remain excluded pending the outcome of any exemption review and appeals.

(h) Supplemental Background Checks.

1. The Department may, at anytime, request that the criminal background or status on the Department of Health’s Vulnerable Persons Registry of any individuals having access to children under any of the circumstances set forth in this subchapter be reviewed using the processes described above or in T.C.A. § 71-3-507. All other provisions applicable to any pre-employment or post-employment, residential or access status of any individual shall apply to any background review conducted pursuant to this subparagraph (h).

2. The employment status of persons for whom a post-employment criminal history background review was conducted, or the status of existing licensees or operators, substitutes, volunteers or residents of a child care agency for whom a criminal history background review was conducted after license approval or after employment or assuming duties as a volunteer or substitute, and who were not otherwise subject to a pre-status applicant background check and to the exclusionary provisions provided in this subchapter, shall be governed by the provisions of this subchapter and T.C.A. § 71-3-507.

(2) Staff Qualifications.

(a) Every staff person, including volunteers, practicum students, and substitutes, shall be physically, mentally, and emotionally capable of performing his/her duties satisfactorily.

1. The Department may require, in its sole discretion, any individual, whether a pending or current employee, volunteer or any other person, who has contact with children in the care of the agency to undergo a mental health examination, physical health examination, or drug screening test when, in the Department’s sole determination, there is reasonable cause to believe that such individual may have an impairment that potentially poses a risk of harm to children in the care of the agency. An individual requested to undergo such examinations or screenings may refuse to do so, but will not be permitted to have any further contact with children in the care of the child care agency until completion of the examination and satisfactory evidence is provided to the Department that the person does not represent a risk of harm to the children in the agency’s care.


(i) Pending the outcome of such testing, the Department may require, in its sole discretion, the child care agency to enter into a safety plan approved by the Department that prohibits or limits such individual’s contact with children in the care of the child care agency.

(ii) The Department may otherwise require, in its sole discretion, that the child care agency enter into a long-term or permanent safety plan that prohibits or limits an impaired individual’s contact with children in the care of the agency.
(iii) Failure to adhere to the safety plan shall be grounds for action by the Department against the child care agency's license as permitted by T.C.A. § 71-3-508(c).

(iv) The child care agency or any individual whose employment status is directly and adversely impacted by a safety plan or by refusal to undergo an examination as directed by the Department, may, at any time during the existence of the plan or during the pendency of the directive for an examination, request, in writing, that the Director of Licensing conduct an intradepartmental review of a safety plan. Such review shall be conducted by the Director or the Director’s designee within five (5) business days of the written request.

(v) Any individual whose employment status is directly and adversely impacted by a safety plan that has been in effect for more than ten (10) business days or by their refusal to undergo an examination as directed by the Department, and who has requested an intradepartmental review pursuant to subpart (iv), may appeal the plan’s application to such individual or the directive to undergo testing to the Department by filing a written request for an administrative hearing before the Department’s Appeals Division within ten (10) days of the Director’s decision. The hearing shall be held by the Division within twenty (20) business days of the receipt of the request for an administrative hearing.

(vi) Any safety plan that exceeds ninety (90) days when proposed or that continues for more than ninety (90) days may be appealed by the child care agency to the Child Care Agency Board of Review.

(b) A person who has a physical, mental, or emotional condition which is in any way potentially harmful to children shall not be present with the children.

(c) Each new employee must be provided a copy of these rules.

(d) Each new employee shall serve a probationary period of three (3) to six (6) months, during which close supervision is provided. Staff performance shall be reviewed prior to the end of the probationary period. All employees shall have annual reviews. Discussion of evaluations with staff shall be documented.

(e) Contents of Employee Records

1. The agency’s records shall contain verification that, prior to assuming duties, each new employee has received orientation in, and is able to explain:

   (i) Child care philosophy;

   (ii) Job description;

   (iii) Personnel policies;

   (iv) Emergency procedures;

Current through rules effective April 2014.
(v) Discipline policies, and

(vi) Policies for receiving and dismissing children.

2. Within the first two (2) weeks of employment, each employee shall receive instruction in disease control and health promotion. Such training shall be documented in the agency’s records.

3. Within the first thirty (30) days of employment, each employee shall receive instruction in parent-center communication, and an overview of licensing requirements. Such training shall be documented in the agency’s records.

(f) Training.

1. Notwithstanding any other requirements of Title 71, Chapter 3, Part 5 of the Tennessee Code Annotated, training requirements for the staff of any Drop-In Child Care Center shall be limited to basic health and safety precautions as well as the detection and reporting of child abuse and neglect for children in the center’s care.

2. Within the first thirty (30) days of employment, all staff working with children shall receive training in the detection, reporting, and prevention of child abuse. Such training shall be documented in the agency’s records.

(3) Substitutes.

(a) The names, addresses, telephone numbers and dates of service shall be recorded for all substitutes in the staff personnel records of the drop-in center.

(b) Substitutes shall comply with the orientation requirements of 1240-04-02-.05(2)(e).

(c) Substitutes acting as caregivers shall meet the training requirements of 1240-04-02-.05(5)(c) if they have acted as caregivers for two hundred (200) or more hours in the previous calendar year.

(d) Substitutes providing services for thirty-six (36) hours or more in a calendar year are required to have a criminal background check pursuant to 1240-04-02-.05(1)(e), and shall meet the same requirements as regular staff for physical examinations as required by 1240-04-02-.08(11)(a); provided, however, that persons serving temporarily as caregivers in field service placements as part of an educational course of study or other curriculum requirement shall not be considered as substitutes for purposes of this rule.

(4) Director of a Drop-in Child Care Center.

(a) The drop-in center shall have an on-site director [except as otherwise permitted pursuant to 1240-4-.04(2) above]. The director shall have earned a high school diploma or its equivalent and one (1) year of full time
documented work experience with young children in a group setting.

(b) Prior to issuance of the first annual license, the licensee and director shall complete a child care orientation course offered through or recognized by the Department. New directors of child care agencies currently licensed shall complete the orientation course within (3) months of assuming the position.

(c) The director shall have evidence of completing at least six (6) clock hours annually of Department-recognized training. At least three (3) of these hours shall be in administration, management or supervisory training.

(d) The director shall complete four (4) hours of pre-employment training, which is offered or recognized by the Department, that includes, but is not limited to, training in interviewing and evaluating caregivers for service in an agency and in working effectively with parents. If the Department determines that the director has received specific training meeting the requirements of this part within three (3) years prior to employment, the requirement of this part may be waived by the Department.

(5) Caregivers.

(a) Each caregiver who is used to meet the minimum required adult:child ratio must be at least eighteen (18) years of age.

(b) At least one (1) caregiver who is present in the agency shall be able to read and write English.

(c) Caregivers shall have evidence of receiving at least three (3) clock hours annually in Department-recognized training.

(d) New caregivers shall complete two (2) clock hours of pre-service orientation training offered or recognized by the Department. For purposes of this rule, “pre-service” orientation shall mean that such orientation occurs within the first thirty (30) days of employment with the agency. Pending completion of the orientation training, the caregiver’s status is conditional. Failure of the caregiver to complete the required two (2) hours of pre-service orientation shall require that the employee be removed from caregiver duties for children until completion of the training.

(e) Auxiliary Staff.

1. Any auxiliary staff persons (e.g., maintenance staff, kitchen staff, etc.) shall be physically and mentally capable of performing satisfactorily in their respective positions.

2. Any auxiliary staff directly employed by the center shall receive orientation to their position within the first two (2) weeks of employment. This training shall include:

   (i) Personnel policies;

Current through rules effective April 2014.
(ii) Job responsibilities;

(iii) Parent communication;

(iv) Daily schedule and routine;

(v) Center policies regarding discipline;

(vi) Detection and reporting of child abuse; and

(vii) Emergency procedures.

Tenn. Comp. R. & Regs. 1240-04-02-.06

1240-04-02-.06. EQUIPMENT FOR CHILDREN.

(1) General.

(a) All indoor and outdoor equipment shall be safe for use with the applicable age group and shall be properly maintained to avoid any potential risk to children.

(b) Equipment shall not contain any dangerous angles, sharp edges, splinters, nails sticking out, open S-hooks or pinch points that are within children’s reach.

(c) Damaged equipment shall be repaired or removed immediately.

(d) Equipment shall be kept clean by washing frequently.

(e) There shall be age appropriate equipment and furnishings for each age group in attendance.

(f) In infant/toddler areas, equipment and space shall be provided for climbing, crawling, and pulling without the restraint of playpens or cribs.

(2) Indoor Play Equipment.

(a) Any equipment which may present a fall hazard, such as television sets, bookcases, appliances, etc. shall be secured or supported so that they will not fall or tip over.

(b) Indoor equipment, materials, and toys shall be available to allow children to make choices among
(c) Toys, educational, and play materials shall be organized and displayed within children’s reach to allow children to select and return items independently.

(d) No materials that contain small parts that can be inhaled or swallowed which may present a potential choking hazard shall be accessible to children under three (3) years of age.

(3) Outdoor Play Equipment.

(a) If outdoor play equipment is provided, it shall be age appropriate.

(b) The Consumer Products Safety Commission’s “Handbook on Public Playground Safety” or similar authority shall be used for guidance on playground construction and maintenance.

(c) All outdoor play equipment shall be placed to avoid injury. Fall zones shall extend at least six (6) feet away from the perimeter of equipment and away from retainer structures, fences, and other equipment and out of children’s traffic paths.

(d) Resilient surfacing material shall cover fall zones in the manner and depth directed by the Department in accordance with the recommendations set forth in subparagraph 3(b) above.

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

(4) Naptime and Sleeping Equipment.

(a) There shall be equipment for napping or sleeping.

(b) All nap/sleep equipment shall be properly maintained and comply with the following requirements:

1. Individual cots or two-inch mats shall be provided for mature toddlers and for children through age five (5).

2. Individual beds or cots shall be provided for children sleeping for extended periods of more than two and one half (2-1/2) hours, such as during nighttime care.

3. A clean sheet or towel shall be used to cover whatever the child sleeps on.

4. A clean coverlet shall be available to each child.

Current through rules effective April 2014.
Tennessee Rules and Regulations Currentness _1240. Department of Human Services _1240-04. Adult and Family Services Division _Chapter 1240-04-01. Standards for Group Child Care Homes (Refs & Annos)

5. Each infant shall have an individual crib (at least twenty-two inches (22") x thirty-six inches (36") with an open top. Mattresses and foam pads shall be covered with safe, waterproof material. Soiled sheets and coverlets shall be replaced immediately.

Tenn. Comp. R. & Regs. 1240-04-02-.07

1240-04-02-.07. PROGRAM.

(1) Schedule and Routines.

(a) Rest for the children shall occur as needed.

(b) A child shall not be left in a crib or on a cot for an unreasonable length of time.

(c) Agencies providing nighttime care shall provide calming activities preceding bedtime, including listening to a story or soft music, etc., and individual/adult attention shall be provided as needed.

(d) Children shall not be forced to sit on the potty or toilet for more than five (5) minutes.

(2) Television, Videos, and Computers.

(a) All television, computer/video games, programs/movies shown shall be designed for children’s education and/or enjoyment. Programs/movies/games with violent or adult content (including “soap operas”) shall not be permitted in children’s presence. Programs/movies shall be age appropriate for the viewers.

(b) All programs, videos, and movies must be previewed by staff for content.

(c) Parents shall be informed of movie showings and ratings of the movies to be shown.

(d) Other activities shall be available to children during television/movie viewing or computer/video game use.

(e) Computer/video game use must be monitored by staff.

(3) Behavior Management and Guidance.

(a) Attention spans and skills of children shall be considered so that caregivers do not require behaviors of children which are developmentally inappropriate.

Current through rules effective April 2014.
Discipline shall be reasonable, appropriate, and in terms the children can understand.

Punishment that is shaming, humiliating, frightening, verbally abusive, or injurious to children shall not be used.

Punishment shall not be related to food, rest, or toileting.

Spanking or any other type of corporal punishment is prohibited. (“Corporal punishment” is the infliction of bodily pain as a penalty for behavior of which the punisher disapproves.)

Caregivers shall not focus solely upon unacceptable behavior.

Praise and encouragement of good behavior shall be used.

When a child is engaging in unacceptable behavior the caregiver shall, prior to using punishment, attempt to distract the child’s attention and substitute a desirable activity.

Time Out.

1. Use of time-outs shall be reasonable and age appropriate.

2. A time-out shall take place in an appropriate location based upon the development of the child.

3. The length of each time-out session shall be based on the age of the child and shall not exceed one (1) minute per each year of the child’s age.

Age-Appropriate Activities.

Age-appropriate activities shall be available for all ages of children the center is licensed to serve.

Interaction by staff with infants/toddlers should stimulate the development of language, gross motor, fine motor, social/personal, cognitive, and self-help skills. Examples of such activities include music, dramatic play, story time, free activity periods, outdoor play, and the opportunity to explore many materials, situations, and roles.

Swimming. Swimming is prohibited.

Personal Safety Curriculum.

For ages three (3) through school-age, a curriculum shall be offered that shall include instruction, at least...
(b) Personal Safety Curriculum Components and Guidelines.

1. The personal safety curriculum shall include a Department-recognized component for the prevention of child abuse, including, for children four (4) years of age and older, a child sexual abuse prevention component.

2. The curriculum shall be based upon curriculum guidelines provided by the Department to the child care provider in any suitable format. The child care provider may choose terminology and instructional methods for this curriculum with a goal of providing clear, effective and appropriate instruction to the children in personal safety, including the prevention of all forms of child abuse.

(c) Personal Safety Instruction Requirements for School-Age Children.

1. For school-age children, the curriculum shall include instruction for reporting physical, sexual or verbal abuse.

2. Children of school-age shall not be required to receive personal safety instruction from the child care agency if they annually receive personal safety instruction as required by this paragraph (6) in the curriculum of their local public education agency, or, if they receive such instruction in any other educational setting, as approved, in either circumstance, by the Department.

3. Documentation of Personal Safety Instruction in Educational Settings.

   (i) Written documentation, in a form and manner approved by the Department, verifying that annual personal safety instruction as required by this paragraph (6) is being provided in a public educational setting to each child enrolled in the child care agency, shall be maintained on file with the Department.

   (ii) For children who do not attend public schools, the child care provider shall secure and maintain documentation, in a form and manner approved by the Department, verifying that each school-age child enrolled in the child care agency is receiving annual personal safety instruction as required by this paragraph (6).

(d) Beginning October 1, 2008, the personal safety curriculum used by a child care agency shall be made available by the child care agency to parents and legal guardians for review. The child care agency shall use a standard notification form developed by the Department that will be provided to the parents or legal guardians by the child care agency to confirm that the parents/guardians have been notified of the curriculum to be used and of their opportunity to review the personal safety curriculum.

(e) The record of each enrolled child shall include a copy of the signed notification form acknowledging that parents/legal guardians have been provided an opportunity to review the agency’s personal safety curriculum, and have been notified of the sexual abuse/personal safety curriculum for their child.

Current through rules effective April 2014.
(f) If parents/legal guardians have questions regarding the personal safety curriculum, a representative of the child care agency shall meet with the parents/legal guardians to discuss the curriculum.

(1) Supervision and Grouping of Children.

(a) The management of the center shall maintain a system that allows personnel to know the whereabouts of each child in their care. This system shall include a mandatory visual inspection of all areas of the building and grounds immediately prior to closing the center for the day in order to ensure that no children have been unintentionally left.

(b) Children must have adult supervision at all times as defined in section 1240-04-02-.02 (29).

(c) No child (ren) shall be left unattended for any reason.

(d) Caregivers shall not leave the group until replacement(s) have arrived.

(e) Arrangements shall be made so that in an emergency, a caregiver, without having to leave the group, can call by phone or voice for a second adult to help.

(f) Age Categories and Adult: Child Ratios.

1. Children shall be placed in age-appropriate groups and with adequate adult supervision as established in parts 2-5 below.

2. Single-age Grouping

<table>
<thead>
<tr>
<th>Age</th>
<th>Adult:Child Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant (6 weeks to 12 months)</td>
<td>1:4</td>
</tr>
<tr>
<td>Toddler (12 months to 24 months)</td>
<td>1:10</td>
</tr>
<tr>
<td>2 years</td>
<td>1:12</td>
</tr>
<tr>
<td>3 years</td>
<td>1:15</td>
</tr>
</tbody>
</table>

Current through rules effective April 2014.
3. Multi-Age Grouping.

(i) The adult:child ratio of a multi-age grouping shall be determined by the age of the majority of the children in the group; provided, however:

(I) No majority age: If the ages of the children are evenly divided, and thus there is not a majority age, the adult:child ratio shall be determined by the age of the youngest child in the group.

(II) Infants: The adult:child ratio of any group containing an infant shall be determined solely by the number of infants in the group as set forth in subparagraphs (ii) and (iii) below.

(ii) The adult:child ratio for any multi-age grouping containing three (3) or more infants is 1:4.

(iii) The adult:child ratio for a multi-age group containing one (1) or two (2) infants is as follows:

<table>
<thead>
<tr>
<th>Majority Age</th>
<th>One Infant</th>
<th>Two Infants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Toddlers (12 to 24 months)</td>
<td>1:8</td>
<td>1:6</td>
</tr>
<tr>
<td>2 Years</td>
<td>1:10</td>
<td>1:8</td>
</tr>
<tr>
<td>3 Years</td>
<td>1:12</td>
<td>1:10</td>
</tr>
<tr>
<td>4 Years</td>
<td>1:15</td>
<td>1:12</td>
</tr>
<tr>
<td>5 Years (not in Kindergarten)</td>
<td>1:17</td>
<td>1:13</td>
</tr>
<tr>
<td>K &amp; Above</td>
<td>1:19</td>
<td>1:15</td>
</tr>
</tbody>
</table>

Current through rules effective April 2014.
4. When more than fourteen (14) children are present, children under two (2) years of age must have their own designated area.

5. The Federal Americans with Disabilities Act guidelines shall be consulted to determine the appropriate adult: child ratios for children with special needs.

(2) Sudden Infant Death Syndrome.

(a) Infants under six (6) months of age:

1. Shall be positioned on their backs or sides when placed in a crib for sleeping;

2. Shall not be wrapped tightly in blankets; and

3. Shall be checked by a caregiver every thirty (30) minutes by touching them.

4. Infants who have been identified to the center as suffering from gastric reflux, or who the center should reasonably know are experiencing excessive spitting-up and/or sinus or respiratory congestion, shall be checked by a caregiver every fifteen (15) minutes by touching them.

(b) Bedding for Infants under six (6) months of age:

1. Soft bedding is prohibited.

2. Pillows are prohibited.

3. Bottles shall never be propped, nor otherwise be placed on or near the child’s bedding.

(c) If a child appears to not be breathing, emergency medical assistance shall be immediately provided.

(d) The failure to comply with the requirements of this paragraph (2) by themselves, shall be a basis for the denial, revocation, or suspension of all or part of the center’s license.

(3) Children’s Health Records

(a) Before a child older than eight (8) weeks is accepted for care, a written statement signed by the parents that includes a list of allergies, medical conditions, and age appropriate shots shall be on file. If a child who was accepted for care at six (6) weeks of age continues in care at eight (8) weeks, the written statement described in the preceding sentence shall be in the child’s record before care for that child may continue.
(b) If children with mental, physical or other impairment or with a medical disorder are enrolled and special care is needed, their health records shall include a statement identifying the condition and giving any and all special instructions for the child’s care.

(4) Children’s Health.

(a) Children shall be checked upon arrival and observed for signs of communicable disease during the day. Symptomatic children shall not be admitted. Every sign of illness shall be reported to the parent as soon as possible, but no later than the end of the day in which it occurred.

(b) Accidents and injuries to children shall be documented, including date and time occurred, description of circumstances, and action taken by caregivers. Injuries of more than a minor nature shall be reported as soon as possible to parents, but no later than the end of the day in which they occurred.

(5) Nutritional Needs.

(a) A meal or a supplement shall be available every three (3) hours according to a normal feeding pattern as follows:

1. Three (3) to five (5) hours: One (1) feeding; and

2. Five (5) to six (6) hours: Two (2) feedings.

(b) Special-needs diets shall be served as prescribed by a parent or physician. Such feeding instructions must be in writing and signed by the parent/guardian or physician.

(e) Food shall not be forced on, or withheld, from children. Foods served as part of the meal/supplement pattern shall not be used as reward, nor shall food be used or withheld as punishment.

(d) Meals or supplements prepared outside the center (e.g., sack lunches or catered food) shall be monitored by center staff.

(e) The feeding schedule for infants shall be in accordance with the child’s needs rather than according to the hour.

(6) Meal Service.

(a) Children shall be supervised during mealtime as set forth in 1240-04-02-.08(1). The failure to properly supervise children during mealtime may, in itself, result in the immediate suspension of all or part of the center’s authority to operate under its license.

Current through rules effective April 2014.
(b) Sanitation.

1. Caregivers and children shall wash their hands according to prescribed handwashing techniques (see subparagraph (11)(c) below).

2. Furniture and cabinets where food is prepared or served shall be washed with soap and water and sanitized before and after snacks and meals.

3. Sanitizing agents shall comply with the requirements set by the Department of Health and/or the local jurisdiction environmental inspector.

4. The floors under areas where food is served shall be swept and/or vacuumed after each meal and cleaned as needed.

(c) Solid foods (including cereal) shall never be mixed with liquid foods, nor shall they otherwise be provided in a bottle or infant feeder unless authorized by the written and signed instructions of a licensed physician. Failure to comply with this rule may, in itself, immediately result in the suspension of all or part of the center’s license to operate.

(d) Individual napkins, utensils and dishes shall be provided for children who feed themselves, as appropriate for the type of feeding. Routine food service dishes, utensils, and bottles shall be break-resistant and shall not be glass.

(e) All formulas and food brought from home shall be labeled with the child’s name. Milk shall be in an insulated container and stored with the child’s individual ice pack or placed immediately in the refrigerator. Once milk has been warmed, it shall not be rewarmed or returned to the refrigerator. For optimum digestion, formula is to be served at body temperature.

(f) Microwave ovens shall not be accessible to pre-school children.

(g) School-age children shall use microwaves only under direct supervision.

(h) Bottled breast milk, infant bottles, and formula shall not be heated in a microwave oven. Other bottle warming devices shall be used safely, according to directions and shall not be accessible to children.

(i) In order to reduce the risk of splash or burn, children shall not be held, nor otherwise allowed in close proximity to the adult removing a bottle from a crockpot or other bottle-warming device.

(j) An adult must test, and allow cooling, as needed, all heated food prior to serving.

(k) Previously opened baby food jars shall not be accepted in the center. If food is fed directly from the jar by the caregiver, the jar shall be used for only one feeding.

Current through rules effective April 2014.
(l) Infants shall be held while being fed as long as they are unable to sit in a high chair, an infant seat, or at the table. Bottles shall not be propped, and a child shall not be given a bottle while lying flat.

(7) Medication.

(a) The center shall not administer any medication, internal or external, except upon written authorization signed by a licensed physician, licensed physician’s assistant, or licensed nurse clinician.

(b) Authorized medications shall be labeled with the child’s name and the specific instructions for their administration.

(c) Administration of medications and noticeable side effects shall be charted and reported to parents.

(d) Medication shall not be accessible by, or otherwise handled by, children.

  1. Exception: Children may self-administer medication with the written authorization of a physician.

  2. Staff shall monitor the child’s self-administration and shall document the date and time of the self-administration in the child’s file.

(e) Medications shall be made inaccessible to children by storing them in locked compartment or container.

  1. Exceptions:

(i) Emergency medications requiring immediate administration, including, but not limited to, injections for anaphylactic allergic reactions, asthma treatments, etc., may be stored in unlocked containers that are clearly inaccessible to children.

(ii) Self-administered medication shall be stored in a locked container unless prescribed for the child to self-administer “as needed”. Medication that is self-administered as needed shall be held by the caregiver or shall otherwise be stored in such a manner as to allow immediate access while insuring that the medication remains inaccessible to other children.

(iii) Medication requiring refrigeration that is kept in a refrigerator used for food storage shall be put in a leak-proof locked container. Keys for these compartments shall be inaccessible to children.

(8) Prohibited practices and products

(a) Smoking is prohibited inside the drop-in center and in the presence of children. No smoking signs shall be posted conspicuously within the facility.

Current through rules effective April 2014.
(b) The use of alcoholic beverages is prohibited during the hours of operation of the center.

(c) Firearms are prohibited in the drop-in center and are otherwise prohibited in the presence of children enrolled at the drop-in center.

(d) Any activities on the premises or property which may place children at risk are prohibited.

(9) Diapering

(a) Children shall immediately be diapered/changed and cleaned when wet or soiled.

(b) The diapering area shall be off the floor, have a washable surface, be located near a handwashing lavatory and shall not be in a food preparation/service area. Exception: school-age special needs children may be placed on a non-absorbent mat which protects the floor from contamination.

(c) All diapering surfaces must be nonporous and shall be sanitized after use with each child by using solutions described or otherwise permitted in paragraph (10) below.

(10) Cleaning Solutions for General Cleaning and Sanitizing Purposes.

(a) For general cleaning and sanitizing purposes, a fresh solution of one quarter (1/4) cup chlorine bleach to one (1) gallon of water (or one [1] tablespoon bleach to one [1] quart of water) shall be made daily.

(b) Substitutions for the bleach solution required in subparagraph (a) that are approved for the child care setting by the Department of Health are permissible.

(11) Staff Health.

(a) Within thirty (30) days after beginning to work, all staff members shall have on file written evidence of a physical examination within the last three (3) years and a statement that their general physical and mental condition will permit them to direct and actively participate in the activities of a group of young children with reasonable accommodation, if necessary. The form or statement shall have the signature or stamp of a licensed physician, a certified nurse practitioner, or a certified physician’s assistant.

(b) An updated statement of each staff member’s physical health shall be obtained every third year or more often if deemed necessary by the Department.

(c) For the protection of children and adults, the Centers for Disease Control guidelines for handwashing and diapering procedures shall be followed.

(d) For the protection of children and adults, when blood is to be handled (e.g., resulting from injury to a
child or adult, from nosebleed, or from spillage), vinyl or latex gloves shall be used and properly disposed of following use with/by one individual. Following blood spillage, surfaces shall be cleaned and sanitized.

(12) Safety.

(a) At least one staff member who has current certification or equivalent in infant/child Cardiopulmonary Resuscitation (CPR) shall be on duty at all times.

(b) When school age children are present, at least one staff member who has current certification or the equivalent in adult CPR shall be on duty at all times.

(c) At least one staff member who has current certification or the equivalent, as recognized by the Department, in infant/child first aid shall be on duty at all times.

(d) Current and comprehensive first aid information shall be available to all staff who interact with children and they shall be familiar with such information.

(e) A standard first aid kit (such as one approved by the American Red Cross) shall be available to the staff.

(f) Kitchen knives and other potentially dangerous utensils or tools shall be secured so that they are not accessible to children.

(g) The drop-in center, in consultation with appropriate local authorities, shall develop a written plan to protect children in the event of disaster such as, but not limited to, fire, tornado, earthquake, chemical spills, floods, terrorist attacks, etc.

(h) The center’s disaster plan referenced in subparagraph (g), above, must be reviewed with new staff within ten (10) days of beginning employment. All staff must review the plan a minimum of every six (6) months.

(i) Emergency telephone numbers shall be posted next to the telephone and readily available to any staff member as follows:

1. Fire department;

2. Police department/sheriff;

3. Hospital;

4. Child abuse hotline;

5. Local emergency management agency, if available in the community;

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6. Rescue squad, if available in the community;

7. Ambulance, if available in the community;

8. Poison control center telephone numbers shall also be posted, if available in the community;

9. If a generic number (such as, but not limited to, 911) is operable in the community, it shall be posted in addition to the above numbers; and

10. Numbers where parents can be reached shall be readily available to all staff.


(a) Duty to Report.

1. Every operator, owner, licensee, director, or staff member of, or substitute staff member or volunteer in a child care agency licensed by the Department of Human Services is individually responsible, and is required by T.C.A. §§ 37-1-403 and 37-1-605, to immediately report any reasonable suspicion of child abuse or neglect to the Department of Children’s Services, local law enforcement or the judge of the juvenile court in the county of the child’s residence.

2. Determining Suspicion of Abuse/Neglect.

(i) Due to both the immediate risk to children’s safety, as well as to the extreme risk of destroying or losing critical evidence, the agency and/or individual staff shall not delay reporting possible abuse or neglect in an attempt to conduct an investigation to verify the abuse/neglect allegations.

(ii) In determining a reasonable suspicion for purposes of reporting, the agency shall limit questioning of the child and may make only the most basic inquiries necessary to determine if any reasonable possibility of abuse or neglect exists.

(iii) The agency does not have to, and shall not attempt to, validate (or “prove”) the allegation prior to making a report as required by this paragraph (13). A final determination of the validity of the report of abuse or neglect shall be made exclusively by the Department of Children’s Services and/or by law enforcement based upon the report by the child care agency’s staff.

3. Each center shall develop procedures, approved by the Department of Human Services in conformity with DCS policy, for staff to follow to report suspected abuse and neglect.

4. Any statement from a child reasonably indicating abuse/neglect of that child or another child or any evidence of abuse/neglect observed on a child shall be immediately reported by staff to the Department of
Children’s Services in a manner specified by that department, to local law enforcement or to the judge of the juvenile court in the county of the child’s residence.

(b) The telephone numbers of the Department of Children’s Services, the local law enforcement or the juvenile judge of the county of the child’s residence for staff to call to report suspected abuse and neglect shall be posted in a conspicuous location by each telephone.

(c) Prohibited Procedures for Reporting Suspected Child Abuse/Neglect/Penalties.

1. The agency shall not develop or implement a policy that inhibits, interferes with or otherwise affects the duty of any staff, including substitutes and volunteers, to report suspected abuse or neglect of a child as required by subparagraph (a) above and T.C.A. §§ 37-1-403 and 605, and shall not otherwise directly or indirectly require staff to report to the agency management or seek the approval of agency management prior to any individual staff member reporting the suspected abuse or neglect.

2. A report of suspected child abuse or neglect of a child enrolled in the child care agency by the operator, owner, licensee, director or staff member of, or substitute staff member or volunteer in, a child care agency shall not be made to any other entities or persons, including, but not limited to, hospitals, physicians, or educational institutions as an alternative to or substitute for the reporting requirements to the persons or entities specifically listed in subparagraph (a) above.

3. The operator, owner, licensee, director, or staff member of, or substitute staff member or volunteer in, the child care agency shall not suggest to, advise or direct a parent or caretaker of a child enrolled in the child care agency to make a report of suspected child abuse or neglect regarding that parent’s or caretaker’s own child who is enrolled in the child care agency as a means of fulfilling the duty of the operator, owner, licensee, director, or staff member of, or substitute staff member or volunteer in, the child care agency to report child abuse or neglect as required by T.C.A. §§ 37-1-403 and 37-1-605.

4. Because the statutory requirements of T.C.A. §§ 37-1-403 and 37-1-605 do not authorize the prohibited procedures described in parts 1-3 of this subparagraph (c) to fulfill the statutory duty of any person, and especially the duty of those licensed by the State of Tennessee to care for and protect vulnerable children, to make timely and effective reports of child abuse and neglect to appropriate investigative agencies, and because the prohibited procedures described in parts 1-3 of this subparagraph (c) are completely unreliable procedures to ensure that the appropriate authorities are able to timely and satisfactorily investigate suspected child abuse or neglect, any action that does not comply in all respects with subparagraph (a) above will not fulfill the statutory duty to report child abuse or neglect and the licensing requirements of this Chapter.

5. Failure to Report Properly Is Grounds for Suspension, Denial or Revocation of the Agency License.

(i) Failure to make the reports required by subparagraph (a) above or the use of the prohibited methods described in parts 1-3 of this subparagraph (c) as an attempt to fulfill the duty to report suspected child abuse or neglect, for children in the care of the child care agency are, by themselves, grounds for suspension, denial or revocation of the agency’s license.

(ii) If the facts establish by a preponderance of the evidence that there has not been strict compliance with the requirements of subparagraph (a) above or that the prohibited procedures described in parts 1-3

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of this subparagraph (c) have been utilized as an alternative means of fulfilling the requirements of subparagraph (a) above, these circumstances shall create a rebuttable presumption for the Administrative Law Judge and the Child Care Agency Board of Review that the duty to report child abuse or neglect has not been fulfilled, and this ground for suspension, denial, or revocation of the agency’s license by the Department of Human Services shall be sustained unless such presumption is rebutted by a preponderance of the evidence.

(d) Agency Duties During Investigations of Child Abuse and Neglect; Custodial Authority of Children.

1. Every operator, owner, licensee, director, or staff member of, or substitute staff member or volunteer in, a child care agency licensed by the Department of Human Services shall fully cooperate with all agencies involved in the investigation of child abuse or neglect, and with the Department of Human Services in efforts to provide protection for children enrolled in the child care agency.

2. The agency shall provide access to records of children and staff.

3. The agency shall allow appropriate investigators to interview children and staff.

4. The agency shall not interfere with a child abuse and neglect investigation.

5. The agency shall protect the child by requesting the investigator’s identification.

6. The agency shall maintain confidentiality of the investigation and shall not disclose the investigation or details of the investigation except as required to carry out procedures for the protection of children or as otherwise directed by the Department of Children’s Services, law enforcement or the Department of Human Services.

(e) Upon notification of a pending abuse/neglect investigation of any agency staff member or resident of a home-based center, the agency shall enter into a Safety Plan with the Department regarding the individual’s access to the agency and to children in the care of the agency.

(f) All agency staff, including non-caregiving staff, shall receive training every six (6) months regarding procedures to report child abuse and neglect.

Tenn. Comp. R. & Regs. 1240-04-02-.09
1240-04-02-.09. PHYSICAL FACILITIES.

(1) Inspections.

(a) Facilities that have been unlicensed, relocated, and/or renovated, and new construction, major renovations, additions to existing facilities, and/or changes in occupancy shall comply with the standards of the fire prevention division of the Tennessee Department of Commerce and Insurance and of the Division of

Current through rules effective April 2014.
Food and General Sanitation of the Department of Health.

(b) Fire safety requirements and environmental standards shall be met before a license can be issued.

(c) Requests for inspections are made by the Department, but it is the responsibility of the applicant to obtain verification of the inspections and the approvals. The Department of Human Services will not intervene with Federal, State or local agencies on behalf of an applicant/licensee in any effort to obtain the approvals required by this Chapter.

(2) Plans. Plans for new construction must be drawn by a registered architect or engineer and submitted to the fire prevention division of the Department of Commerce and Insurance and to the local health department when required by such departments and in accordance with the respective departments’ procedures.

(3) Continuing compliance.

(a) Physical facilities shall at all times meet all requirements and codes applicable to child care as set forth by the fire safety section of the Department of Commerce and Insurance and the Food and General Sanitation section of the Department of Health, as well as any updated fire safety or environmental standards for child care adopted by these departments.

(b) Failure to maintain such approved inspections may, in itself, result in the immediate suspension of all or part of the drop-in center’s license.

(4) Annual inspection. All facilities shall be inspected and approved annually by either state codes enforcement officers or authorized local fire safety inspectors and environmentalists.

(5) The drop-in center shall not be located in a building used for purposes that are or may potentially be hazardous to children.

(6) There shall be a working telephone in the center. If answering machines/voice mail must be used, they shall be monitored at thirty (30) minute intervals (except when staff and children are off premises) so that emergency messages can be received. Parents shall be informed that answering machines/voice mails are used.

(7) Facilities shall provide at least thirty (30) square feet of useable indoor play space per child, not including restrooms, halls, kitchen, or office space. Each nap room must also contain thirty (30) square feet of floor space per child.

(8) Outdoor play areas shall contain a minimum of fifty (50) square feet of useable play space for each child using the area at one time.

(9) The areas where children play or are cared for shall be properly maintained. These areas shall be free of hazardous items or materials unless adequately protected by storage, inaccessibility, proper supervision, or other safety procedures. These areas shall present no conditions which may be hazardous to children. All such areas shall be free of all animal wastes.
(10) Trampolines are prohibited.

Tenn. Comp. R. & Regs. 1240-04-02-.10

1240-04-02-.10. CARE OF CHILDREN WITH SPECIAL NEEDS.

(1) In addition to the preceding rules, if children with disabilities are cared for in the center, the requirements of paragraphs (2) and (3) below shall be met.

(2) When children with disabilities are enrolled, all reasonable and appropriate efforts shall be made to provide those children with equal opportunities to participate in the same program activities as their peers.

(3) The drop-in center shall have written emergency plans for children with disabilities where more assistance would be needed in case of an emergency. Examples: non-ambulatory children, or children with a hearing or visual impairment.

Tenn. Comp. R. & Regs. 1240-04-03-.01

1240-04-03-.01. SCOPE AND PURPOSE.

Child Care Center Regulations: page 106-199

(1) Scope of Rules. These rules are applicable to the licensing of child care centers that care for thirteen (13) or more children, ages six (6) weeks - seventeen (17) years of age for less than twenty-four (24) hours per day as defined by T.C.A. §§ 71-3-501 et seq. Any conflict between this Chapter and any other rules of the Department concerning the licensing procedures and regulations governing child care center standards and licensing and appeal procedures for child care centers shall be resolved by reference to these rules.

(2) Purpose of Licensing. The primary purpose of licensing is the protection of children. These minimum requirements seek to maintain the adequate health, safety, and supervision of children while in a group care setting. The secondary purpose of licensing is to promote developmentally appropriate child care.

Tenn. Comp. R. & Regs. 1240-04-03-.02

1240-04-03-.02. DEFINITIONS.

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

(1) Administrative Hearing. A fair hearing that is held under the Administrative Procedures Act rather than in a court of law. The purpose of the hearing is to allow an agency the opportunity to challenge licensing enforcement actions taken by the Department.

Current through rules effective April 2014.
(2) Annual License. An annual permit issued by the Department to a child agency, authorizing the licensee to provide child care in accordance with provisions of the license, the law, and requirements (rules) of the Department.

(3) Applicant. The owner or owner’s authorized representative who is required, pursuant to the provisions of these rules, to sign the application for a license.

(4) Auxiliary staff. Full and part-time employees of the agency who provide non-caregiving services.

(5) Capacity. The maximum number of children who can be physically located in the child care space at any given point in time. See also, “Licensed Capacity”.

(6) Caregiver. An individual, whether paid or unpaid, including the Primary Caregiver, who is responsible for meeting the supervision, protection, and basic needs of the child, and who is used to meet the adult:child ratios required by these rules.

(7) C.C.P. Certified Childcare Professional. An early childhood educational credential granted by the National Child Care Association.

(8) C.D.A. Child Development Associate. An early childhood educational credential granted by the National Council for Professional Recognition.

(9) Child or Children. A person or persons under eighteen (18) years of age.

(10) Child Care. As defined by T.C.A. § 71-3-501, the provision of supervision and protection, and, at a minimum, meeting the basic needs, of a child or children for less than twenty-four (24) hours a day.

(11) Child Care Center. “Child care center” means any place or facility operated by any person or entity that provides child care for three (3) or more hours per day for at least thirteen (13) children who are not related to the primary caregiver; provided, that a child care agency shall not be classified as a “child care center” that operates as a “group child care home” and keeps three (3) additional school-age children as permitted in subdivision (27); provided, further, that all children, related or unrelated shall be counted in the adult-to-child supervision ratios and group sizes applicable to child care centers; with the exception, that if the child care center is operated in the occupied residence of the primary caregiver, children nine (9) years of age or older who are related to the primary caregiver will not be counted in determining the adult-to-child supervision ratios or group sizes applicable to child care centers if such children are provided a separate space from that occupied by the child care center. The Department may permit children in the separate space to interact with the children in the licensed child care center in such manner as it may determine is appropriate.

(12) Child Care Agency. “Child care agency” or “agency” means, and only where the context requires in any other provision of law:

(a) A place or facility, regardless of whether it is currently licensed, that is operated as a “family child care home”, a “group child care home”, a “child care center”, or a “drop-in center”, as those terms are defined in

Current through rules effective April 2014.
(b) A place or facility that provides child care for three (3) or more hours per day for five (5) or more children who are not related to the primary caregiver.

(13) Child Care System. The existence of two (2) or more facilities used for child care purposes which are under the ownership, administration, or control of any individual(s), corporation, partnership, cooperative, or other public or private entity of any kind.

(14) Commissioner. The executive head of the Department of Human Services, appointed by the Governor.

(15) Conventional Care. Child care services provided between the hours of 6:00 a.m. and 6:00 p.m., Monday through Friday.


(17) Department (DHS). The Tennessee Department of Human Services and its authorized representatives.

(18) Developmentally Appropriate. Practices which use a knowledge of child development to identify the range of appropriate behaviors, activities, and materials for a specific age group. This knowledge is used in conjunction with an understanding about individual children’s growth patterns, strengths, interests, and experiences to design the most appropriate learning environment. A developmentally appropriate curriculum provides for all areas of a child’s development, physical, emotional, social, and cognitive, through an integrated approach.

(19) Director. The on-site manager for the agency who has overall responsibility for the daily oversight of all staff and direct child care services.

(20) Drop-In Child Care Center. A place or facility operated by any person or entity providing child care, at the same time, for fifteen (15) or more children, who are not related to the primary caregiver, for short periods of time, not to exceed fourteen (14) hours per week and for not more than seven (7) hours per day for any individual child during regular working hours, Monday - Friday 6:00 a.m. to 6:00 p.m.; provided, however, that a drop-in center may provide such child care during evenings after 6:00 p.m. and weekends, Friday, 6:00 p.m. - Sunday, 10:00 p.m., so long as the drop-in center provides no more than a total of twenty (20) hours per week, exclusive of snow days, defined as days when the school of the affected child is closed; provided, further, that drop-in centers may provide such care during snow days; provided, however, that, notwithstanding any other requirements of this part, training requirements for the staff of this class of child care agency shall be limited to basic health and safety precautions and the detection and reporting of child abuse and neglect for children in care; provided, further, that, notwithstanding any other provision of this chapter to the contrary, drop-in centers operated by not-for-profit organizations that provide child care for no more than two (2) hours per day with a maximum of ten (10) hours per week without compensation, while the parent or other custodian is engaged in short-term activities on the premises of the organization, shall register as providing casual care and shall not be deemed to be a drop-in center or regulated as a drop-in center.

(21) Exemption. A finding by the Department that, pursuant to the provisions of T.C.A. § 71-3-503, a program involving children is not required to be licensed by the Department of Human Services.
(22) Extended Care. Child care services offered between the hours of 6:00 p.m. and 6:00 a.m., Monday through Friday, and weekend child care.

(23) Family Child Care Home. Any place or facility that is operated by any person or entity that provides child care for three (3) or more hours per day for at least five (5) children but not more than seven (7) children who are not related to the primary caregiver; provided, that the maximum number of children present in the family child care home, including related children of the primary caregiver shall not exceed twelve (12), with the exception that, if the family child care home is operated in the occupied residence of the primary caregiver, children related to the primary caregiver nine (9) years of age or older will not be counted in determining the maximum number of children permitted to be present in a “family child care home” if those children are provided a separate space from that occupied by the family child care home. The Department may permit children in the separate space to interact with the children in the licensed family child care home in such manner as it may determine is appropriate.

(24) Field Trip. Any off-site activity that is not a part of the regular curriculum of the child care agency and which occurs away from the general premises of the child care agency’s licensed facility and beyond reasonable walking distance.

(a) In order to meet the requirement that the trip not be a part of the regular curriculum, the trip must be an occasional activity that does not represent a regular, ongoing service or program of the agency.

(b) Regularly-scheduled trips (for example, weekly trips) do not meet the definition of a field trip, regardless of whether the regularly-scheduled trips are to different destinations.

(25) Foster Home. A home approved by the Department of Children’s Services or a licensed child-placing agency for the residential care of children. Any other agency type that may place children with surrogate families is not considered a “Foster Home” for the purposes of these Rules.

(26) Group. A specific number of children comprising a specific age range and assigned to specific staff in an assigned space that is divided from the space of other groups by a recognizable barrier.

(27) Group Child Care Home. Any place or facility operated by any person or entity that provides child care for three (3) or more hours per day for at least eight (8) children who are not related to the primary caregiver; provided, however, that the maximum number of children present in a group child care home, including those related to the primary caregiver, shall not exceed twelve (12) children, with the exception that, if the group child care home is operated in the occupied residence of the primary caregiver, children related to the primary caregiver nine (9) years of age or older will not be counted in determining the maximum number of children permitted to be present in a group child care home, if those children are provided a separate space from that occupied by the group child care home; and, provided, further, that up to three (3) additional school-age children, related or unrelated to the primary caregiver, may be received for child care before and after school, on school holidays, on school snow days and during summer vacation. The Department may permit children in the separate space to interact with the children in the licensed group child care home in such manner as it may determine is appropriate.

(28) Home School. For the purposes of these rules home schooling is defined as the provision of full-time educational services, as recognized by the Department of Education, to a child by the child’s parent in the

Current through rules effective April 2014.
(29) Infant. A child who is six (6) weeks through fifteen (15) months of age.

(30) Law. Statutory or regulatory provisions affecting the operation of a child care agency including, but not limited to, the licensing law as contained in T.C.A. §§ 71-3-501 through 71-3-513, Chapter 1240-4-5, and these rules.

(31) Licensee. The owner, as defined by these rules, to whom a license to operate a child care facility is issued.

(32) Licensed Capacity. The designated maximum number of children permitted in a facility as determined by the Department based upon available space, age of children, adult:child ratios, and group size. Licensed capacity shall be designated on the license.

(33) Meal. Meat or meat substitute, vegetable and/or fruit, bread or bread product, and fluid milk.

(34) Off-Site Activity. Any activity which occurs away from the general premises of the child care agency’s licensed facility and beyond reasonable walking distance.

(35) Operator. The individual who is an owner or administrator of a child care agency or child care system.

(36) Owner. The individual(s), corporation, partnership, cooperative, or other private or public entity of any kind, or any combination thereof, who or which, either individually or through their authorized representatives, assume, or is legally required to assume, ultimate legal and administrative responsibility for the management and control of a child care agency.

(37) Parent. A biological, legal, or adoptive parent, and includes, for purposes of this Chapter, a guardian, legal or physical custodian or other caretaker of a child, any of whom has primary responsibility for a child.

(38) Physical Restraint. As used in these rules, a therapeutic safe-hold method of temporarily restraining a child who is at imminent risk of serious self-inflicted injury which is performed by trained personnel after all other methods of alleviating the danger to the child have failed.

(a) The term “safe-hold” includes any technique through which an adult attempts to immobilize a violent child by wrapping their limbs around the child. The term does not include holds administered for the sole purpose of providing comfort or security to a distressed child.

(b) The term “serious self-inflicted injury” includes, but is not limited to, violent outbursts in which a child throws himself/herself against a wall, is hitting or cutting himself/herself, etc.

(39) Preschool Child. A general term for any child who is six (6) weeks through five (5) years of age and not in kindergarten, including children who are more specifically defined under this subchapter as an “Infant” or a “Toddler”.

Current through rules effective April 2014.
(40) Related. As used in this Chapter, any children of the following relationships by marriage, blood, or adoption: children, step-children, grandchildren, siblings, step-siblings, nieces, and nephews of the primary caregiver. The term related includes any “grand” or “great” relationship (e.g., great niece, great grandchild, etc.) within the relationships indicated.

(41) School-age Child. A child who is five (5) years of age and enrolled in kindergarten through seventeen (17) years of age. A five (5) year-old may be classified as a school-age child in the summer immediately preceding the child’s fall entry into kindergarten.

(42) Sick Child Care. The provision, for three (3) or more hours per day and less than twenty-four (24) hours per day, of the supervision, protection, and meeting the basic needs of children who have short term illness, symptoms of illness, or who have a medical or technological dependency that requires continuous nursing intervention.

(43) Snack. A fluid drink and two (2) of the following components, provided, however, that a fluid drink shall not be required if a fluid drink is chosen as one of these components:

(a) Vegetables or fruits;

(b) Bread or bread alternates;

(c) Meat or meat alternates; or

(d) Fluid milk.

(44) Staff. Full and part-time caregivers, employees, or unpaid volunteers of the agency.

(45) Substitute. Paid or unpaid persons who are replacements for regular staff.

(46) Supervision. For the purposes of this Chapter, when children are not within the direct sight and sound of an adult, the term “supervision” means the following requirements:

(a) Children six (6) weeks of age through nine (9) years of age:

1. The adult must be able to hear the child at all times, must be able to see the child with a quick glance, and must be able to physically respond immediately.

2. Exception during mealtime: An adult must be in the direct sight and sound of children ages six (6) weeks through five (5) years, not in kindergarten, while the child is eating.

Current through rules effective April 2014.
(b) Children ten (10) years of age and older:

1. The adult shall know the whereabouts and activities of the children at all times and must be able to physically respond immediately.

2. Each child shall be greeted and received by the specific caregiver assigned who will have ultimate responsibility and accountability for their supervision, oversight and care.

(c) Mixed-age Groups. When children ages ten (10) years or above are grouped with children under ten (10) years of age, the minimum supervision requirements for children ages six (6) weeks through nine (9) years, as set forth in subparagraph (a) above, shall be followed.

(d) Helper devices such as mirrors, electronic sound monitors, etc. may be used as appropriate to meet these requirements.

(47) Temporary License. A permit issued by the Department to a new child care agency allowing and authorizing the temporary licensee to begin child care operations while the agency attempts to attain full compliance with all other applicable regulations. The temporary license is valid, unless suspended, for one hundred twenty (120) days or until the Department grants or denies the application for an annual license.

(48) Toddler. A child who is twelve (12) months through thirty (30) months of age.

(49) Vehicle for Child Care. Any vehicle that is under the direction or control of the child care agency or which is utilized by the child care agency through contract or other agreement, and which is used to provide transportation for children enrolled in the agency, including all vehicles owned or operated by the agency, by a contractor for the agency, or by any other third party providing services to or on behalf of the agency.

(50) Volunteer. A person who provides services for a child care agency without payment and who is used to supplement the regular staff or substitutes, but who is not used to meet the required adult:child ratios; provided, however, that volunteers can be used to meet the required adult:child ratios at the field trip destination.

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

Tenn. Comp. R. & Regs. 1240-04-03-.03

1240-04-03-.03. BASIS FOR ISSUANCE OF A LICENSE.

(1) Annual License.

(a) All child care agencies are required by Tennessee law to be licensed annually by the Department, unless determined by the Department to be exempt from licensing pursuant to the provisions of T.C.A. § 71-3-503.
(b) Issuance of a license is not an endorsement of child care methods or of an agency’s operational philosophy. A license is not transferable from one location to another or from one licensee/operator to another.

(c) All or any part of the license may be revoked at any time upon thirty (30) days notice to the licensee; or if the health, safety, or welfare of the children in care imperatively requires, the license, or any part of the license, may be suspended immediately.

(2) Exemption from Licensure.

(a) A child care agency claiming an exemption pursuant to T.C.A. § 71-3-503 shall submit to the Department’s licensing director, or designee, a sworn, written request for exemption in such manner and form as the Department may require. The request shall provide a detailed description of the operation of the program or activity, the program’s or activity’s purpose and the applicant’s basis for claiming an exemption. The Department shall provide a written response to the exemption request stating the reasons the exemption was granted or denied.

(b) Recognition of exemption from licensure by the Department does not exempt the child care agency from compliance with any other local, state, or federal requirements applicable to its operation.

(3) Issuance of the license is based upon the following criteria:

(a) The safety, welfare and best interests of the children in the care of the agency;

(b) The capability, training and character of the persons providing or supervising the care to the children and the use of such judgment by a caregiver in the performance of any of the caregiver’s duties as would be reasonably necessary to prevent injury, harm or the threat of harm to any child in care;

(c) The quality of the methods of care and instruction provided for the children;

(d) The suitability of the facilities provided for the care of the children; and

(e) The adequacy of the methods of administration and the management of the child care agency, the agency’s personnel policies, and the financing of the agency.

(4) The licensee must maintain compliance with the licensing criteria listed in paragraph (3) above and any other licensing criteria throughout the licensing year.

(5) Foster Homes may not receive a license to operate a child care facility within the foster home. The Department may, in its discretion, waive this requirement if circumstances clearly warrant such an exemption. The request for a waiver shall be submitted in writing to the Department’s Licensing Director.

(6) Falsification of Information. Includes but is not limited to falsified or forged records, documents, and/or
concealment of services or children from monitoring by the Department. Falsification of any information required for licensure shall be grounds for suspension, denial, or revocation of the license.

(7) Scope of Licensed or Exempt Operation.

(a) Licensed capacity shall be designated on the license. All programs shall operate within the licensed capacity or exemption criteria, the hours of operation, the specific age ranges, services offered, and at the address designated on the license or at which the operation was exempted.

(b) All programs shall operate within any restrictions stated on the license.

Tenn. Comp. R. & Regs. 1240-04-03-.04

1240-04-03-.04. PROCEDURES FOR OBTAINING A LICENSE.

(1) Licensing Procedures.

(a) The procedures for licensing, administrative actions, probation, civil penalties, and suspension, denial, revocation of licenses and appeals of licensing actions taken by the Department are contained in Chapters 1240-4-5, 1240-5-13 and this Chapter.

(b) The Department may initiate administrative licensing action and/or judicial action against the licensee pursuant to any provisions of T.C.A. § 71-3-501 et seq. and Chapters 1240-4-5, 1240-5-13, this Chapter or any other provisions of the law.

(c) Any conflict between the definitions and procedures contained in Chapters 1240-4-5 and 1240-5-13 and this Chapter shall be resolved by reference to the provisions of this Chapter.

(2) When an individual or group is giving consideration to opening a child care service/business, the local county office of the Tennessee Department of Human Services must be contacted to obtain an application.

(3) The applicant shall attend one pre-application training session as provided by the Department. In the case of a program that is governed by a board of directors or trustees, this training shall be attended by the applicant. If the applicant is not responsible for the day-to-day management of the program, this training shall be attended by both the applicant and the individual responsible for the day-to-day management.

(4) In addition to the training required in paragraph (3) above, new directors/managers shall attend a pre-service orientation training as provided by the Department and which is at least four (4) hours in length. In the case of a program that is governed by a board of directors or trustees, this training shall be attended by an individual who is responsible for the day-to-day management of the program.

(5) A completed application form shall be signed by the owner or the owner’s authorized representative and shall be submitted to the Department in the form and manner directed by the Department.

Current through rules effective April 2014.
(a) The failure to fully complete all application forms and/or submit all required supporting documentation as directed by the Department shall void the application for a license.

(b) Application fees must be submitted by certified check or money order prior to the issuance of a license; provided, however, that government agencies may submit checks drawn on government accounts.

(6) Issuance of a Temporary License to New Child Care Agencies shall require:

(a) Submission of all required application documentation and the license fee;

(b) Verification that the administrative structure of the agency, as required by subchapter 1240-04-03-.05, appropriately identifies and provides structures and procedures for the full-time management of the center;

(c) Verification that the qualifications for management positions fully comply with the requirements in Chapter 1240-04-03-.07 and subparagraph (j) below;

(d) Verification of three (3) satisfactory written references for the director/management;

(e) Verification that the physical facilities have received fire safety and environmental approval;

(f) Verification that the on-site director/manager has successfully completed a criminal background check and has a negative criminal history as required by T.C.A. § 71-3-507 and this Chapter;

(g) Verification that the applicant and the personnel who will care for the children are capable in all substantial respects to care for the children;

(h) Verification that the applicant has the apparent ability and intent to comply with the licensing law and regulations;

(i) Verification by the Department, after appropriate on-site inspection, that the site is suitable for child care activities and does not endanger the welfare or safety of children;

(j) Verification that the applicant, owner, director or an employee of the agency has not previously been associated in an ownership or management capacity with any child care agency that has been cited by the Department for violations of this part or the Department’s regulations, including the agency for which the application is pending, unless the Department determines that a reasonable basis exists to conclude that such individual is otherwise qualified to provide child care; and

(k) Verification that the criteria in 1240-04-03-.03(3) support the issuance of a restricted or unrestricted license.

Current through rules effective April 2014.
(7) Denial or Restriction of Temporary License.

(a) If the Department determines that any of the requirements set forth in this Chapter has not been, or cannot be, satisfactorily met, then it may deny the application for a temporary license.

(b) If the Department determines that the conditions of the applicant’s facility, its methods of care or other circumstances warrant, it may issue a restricted temporary license that permits operation of a child care agency, but limits the agency’s authority in one (1) or more areas of operation.

(c) Appeals of the denial or restriction of a license are governed by Chapters 1240-4-5 and 1240-5-13.

(8) Terms of the Temporary Licensure Period.

(a) The temporary license shall remain in effect, unless suspended, for a period of one hundred and twenty (120) days, or until such time as the Department grants or denies the application for an annual license, whichever is later.

(b) During the temporary licensure period the licensee must attain and maintain compliance with all applicable licensing regulations. The failure to obtain and maintain such compliance during this period may result in the denial of the application for an annual license.

(9) Evaluation Process for Annual License During the Temporary Licensing Period.

(a) The temporary license is issued to authorize the temporary licensee to begin child care operations while the agency attempts to attain full compliance with all other applicable regulations.

(b) The Department shall perform a minimum of two (2) visits to the child care center during the temporary licensing period, at least one (1) of which shall be unannounced.

(c) The Department shall perform at least one (1) observation of the caregivers’ interaction with children during the temporary licensing period.

(d) During the temporary licensing period, the applicant must provide verification, including any required supporting documentation as directed by the Department, of compliance with all applicable licensing regulations and further, that the applicant otherwise meets, or has continued to meet, all the requirements set forth in paragraph (6) above.

(e) During the temporary licensure period the Department shall determine whether an annual or restricted annual license shall be issued to the applicant.

(f) If the Department determines that any of the requirements set forth in this Chapter has not been, or cannot be, satisfactorily met then it may deny the application for an annual license.

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(g) If the Department determines that the conditions of the applicant’s facility, its methods of care or other circumstances warrant, it may issue a restricted temporary license that permits operation of a child care agency, but limits the agency’s authority in one (1) or more areas of operation.

(h) Issuance of an Annual License. The Department shall issue an annual license if the Department determines that the applicant:

1. Has fully complied with all laws and regulations governing the specific classification of child care agency for which the application was made; and

2. Has demonstrated a reasonable probability that the applicant can maintain compliance with all licensing regulations during the annual license period.

3. Upon issuance of an annual license, the licensee must maintain compliance with all applicable licensing regulations and restrictions on the license, if any, throughout the licensing period.


(a) Agencies currently licensed by the Department must submit an application for relicensure prior to the expiration of the existing license. The failure to submit a complete application prior to the expiration of the current license shall result in the automatic termination of the annual license upon the expiration date, and a new application for a temporary license will be required.

(b) In addition to the evaluation requirements set forth in paragraphs (6) and (9) above, applicants for relicensure shall be evaluated for the Report Card and Star-Quality Child Care Program as set forth in Chapter 1240-4-7.

(c) Upon demonstration of compliance with all laws and regulations governing the specific classification of child care agency for which the application was made; and, if the applicant has demonstrated a reasonable probability that the applicant can maintain compliance with all licensing regulations during the annual license period, the Department shall issue a new annual license.

(d) If the Department determines that any of the requirements set forth in this Chapter has not been, or cannot be, satisfactorily met, then it may deny the application for an annual license.

(e) If the Department determines that the conditions of the applicant’s facility, its methods of care or other circumstances warrant, it may issue a restricted annual license that permits operation of a child care agency, but limits the agency’s authority in one (1) or more areas of operation.

(11) Upon receipt of an application for a license, and throughout the temporary licensing period and during the annual licensing period, immediate access to all areas of the child care facility shall be granted to all Department representatives and other inspection authorities (i.e., fire safety, sanitation, health, Department of Children’s Services, etc.) during operating hours.

Current through rules effective April 2014.
(12) If the Department determines, as a result of its inspections or investigations or those of other local, state or federal agencies or officials, or through any other means, that a plan is necessary to insure the safety of the children in the care of the child care center the Department may require the center to implement such safety plan.

Tenn. Comp. R. & Regs. 1240-04-03-.05

1240-04-03-.05. OWNERSHIP, ORGANIZATION, AND ADMINISTRATION.

(1) Required Written Statement of Agency's Purpose

(a) An applicant for a license to operate a child care agency shall submit a written statement in the form and manner directed by the Department which provides the following information:

1. A description of all services to be offered to children and parents;

2. Ages of children to be served;

3. Planned hours of operation;

4. Meal service plan, including the number and type of meals and snacks to be served, as applicable;

5. Admission requirements and enrollment procedures; and

6. Plans for the provision for emergency medical care.

(b) If, after being licensed, a licensee wishes to change the scope or type of service offered to children and families, an amended statement shall be filed with the Department for approval prior to implementation of the changes.

(2) Organizational Structure.

(a) The organization of every child care center shall be such that legal and administrative responsibility is clearly defined in writing, in the form and manner directed by the Department, with such writing accompanying the application for a license.

(b) Every child care center shall have an on-site director.

(c) Following the issuance of an annual license a child care center may operate without an on-site director for

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a period of no more than sixty (60) days total within the licensing year. A qualified person, as determined by
the Department, shall be in charge in the interim.

(3) Finances and Legal and Regulatory Status.

(a) In order to ensure the appropriate continuity of care for children the applicant must provide a reasonable
plan with a proposed budget for the financial support of a center. The proposal must demonstrate adequate
funding for both preliminary and ongoing costs associated with staffing, equipment and safe operation.
Adequate financing of the center’s operation shall be maintained throughout the licensing year.

(b) Proposed budgets and other relevant financial records shall be immediately available to the Department
upon request.

(c) If any child care agency is the subject of any bankruptcy or receivership petition or order, or any other
action that may affect the financial status or operational status of the child care agency, including but not
limited to foreclosure notices, liens, etc., or, if any child care agency is the subject of any local, state or
federal regulatory action, such as, but not limited to, the fire safety, health, environmental zoning or local,
state or federal program compliance status or tax enforcement proceedings, the agency’s management shall
immediately notify the Department and shall provide current documentation of the status of the agency,
including copies of necessary administrative and/or court legal documents applicable to that status.

(4) Insurance.

(a) General liability, automobile liability and medical payment insurance coverage shall be maintained on the
operations of the child care agency’s facilities and on the vehicles owned, operated or leased by the child
care agency and as follows:

1. General liability coverage on the operations of the child care agency facilities shall be maintained in a
minimum amount of five hundred thousand dollars ($500,000) per occurrence and five hundred thousand
dollars ($500,000) general aggregate coverage.

2. Medical payment coverage shall be maintained in the minimum amount of five thousand dollars
($5,000) for injuries to children resulting from the operation of the child care agency.

3. Automobile coverage for agencies that transport children:

   (i) Automobile liability coverage shall be maintained in a minimum amount of five hundred thousand
dollars ($500,000) combined single limit of liability.

   (ii) Medical payment coverage shall be maintained in the minimum amount of five thousand dollars
($5,000) for injuries to children being transported in vehicles owned, operated or leased by the child
care agency.

(b) The requirements of this paragraph shall not apply to an agency that is under the direct management of a

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self-insured administrative department of the state, a county or a municipality, or any combination of those three (3), or that has, or whose parent entity has, a self-insurance program that provides, as determined by the Department, the coverages and the liability limits required by these rules.

(c) Documentation that the necessary insurance is in effect, or that the administrative department or other entity is self-insured, shall be maintained in the records of the child care agency and shall be available for review by the Department.

(5) Enrollment Restrictions.

(a) Enrollment of children under six (6) weeks of age is prohibited.

(b) Children shall not be in care for more than twelve (12) hours in a twenty-four (24) hour period except in special circumstances (e.g., acute illness of or injury to parents, severe weather conditions, natural disaster, and unusual work hours). In such cases every effort shall be made to minimize the amount of time spent in the child care agency by exploring and documenting alternatives (i.e., part time care, care with a relative, etc).

(c) Individualized plans for the care of a child in excess of twelve (12) hours due to special circumstances shall be signed by the parent and the director and must be approved by the Department. Plans shall be updated annually.

(d) The agency shall not admit a child into care until the parent has supplied the agency with a completed application, immunizations record (for children over two (2) months of age), and a health history.

(e) All children physically present in the facility shall be counted in the adult:child ratio and group size, and shall have all required records on file before care is provided.

(f) The agency shall maintain written documentation that the parent performed an on-site visit to the agency to review the agency’s facility and child care policies and practices prior to the child being enrolled into care.

(6) Requirements for Communication with Parents.

(a) A copy of the agency’s policies, procedures, and the Department’s Summary of Licensing Requirements shall be supplied to the parent/ upon admission of the child. The agency’s policies shall include:

1. Criteria for the disenrollment of children; and

2. Specific criteria concerning the release of children to anyone whose behavior may place the children at immediate risk.

(b) The agency shall require the parent to sign for receipt of the policies and Licensing Summary, and the signed receipt shall be maintained by the agency in the child’s file.

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(c) Parents shall be permitted to see the professional credential(s) of staff upon request.

(d) The agency shall implement a plan for regular and ongoing communication with parents. This plan shall include but not be limited to communication concerning curriculum, changes in personnel, or planned changes affecting children’s routine care. Documentation shall be maintained for the most recent quarter.

(e) During operating hours, parents shall be permitted immediate access to their children.

1. The agency shall grant access to noncustodial parents if the noncustodial parent provides the agency with a valid court order granting the noncustodial parent access to the child during agency operating hours; provided, however, that such access is not otherwise restricted or prohibited by an Order of Protection or other legal document.

2. The custodial parent may not prohibit or restrict, or require the agency to prohibit or restrict, the noncustodial parent’s access to the child while in the care of the agency if the noncustodial parent meets the provisions of part (e)1 above.

3. The agency may place reasonable restrictions on access by any parent as needed to limit disruption of the children’s routines, e.g., limiting the number of days each week the parent may visit, the duration of the visit, etc. Any such limitations or restrictions must be clearly stated in the agency policy provided to the parent upon enrollment of the child, or at any subsequent time if the agency’s policy is changed.

(f) Parents shall give written permission in advance of the child’s removal from the premises, including prior notification and consent for each off-site activity, except in cases of emergencies or investigative procedures conducted pursuant to the child protective service laws or other applicable laws.

(g) Children shall be signed in and out of the center by the custodial parent or other person specifically authorized by the parent or the appropriate staff person. Center staff shall verify parental authorization and the identity of any person to whom a child is released.

(h) An abuse prevention awareness program for parents shall be offered at least once a year. The program shall include a child abuse prevention component, as recognized by the Department with information on the detection, reporting, and prevention of child abuse in child care agencies and in the home.

(i) Notifying Parents of Licensing Violations.

1. Within the licensing year, after issuing two (2) formal notices of licensing violations, a notice of Probation, or after issuing any type of legal enforcement order, the Department may, in its discretion, require the agency to notify parents and funding sources of the circumstances. Such notification shall be a letter prepared by the Department to be provided to each parent or posted in the center with parents’ signatures indicating that they have seen the letter.

2. The Department may, in its discretion, notify parents and funding sources of any decision affecting the
child care agency rendered by the Child Care Agency Board of Review pursuant to Chapter 1240-5-13 or by any court.

(7) General Record Requirements.

(a) All records required by this Chapter shall be maintained in an organized manner on-site at the agency and shall be immediately available to the Department upon request.

(b) A child’s records shall be kept for one (1) year following the child’s leaving the agency; provided, however, that the health record shall be returned to the child’s parent upon request when the child leaves the agency.

(c) Staff records shall be maintained for at least one (1) year following the separation of the staff from the agency.

(8) Children’s Records.

(a) General Requirements for Children’s Records shall include:

1. A current information form, which shall be updated annually and as changes occur, and which shall include:

   (i) The child’s name and date of birth;

   (ii) Name of parent(s);

   (iii) Child’s and parents’ home addresses and phone numbers;

   (iv) Parents’ business addresses, phone numbers and work hours;

   (v) Any special needs or relevant history of the child or the child’s family; and

   (vi) The name and address (home and business or school) of a responsible person to contact in an emergency if parents cannot be located promptly.

2. Name, address, and telephone number of a physician to call in case of an emergency.

3. Written consent of parent regarding emergency medical care.

4. A written plan stating to whom the child shall be released.

Current through rules effective April 2014.
5. Written transportation agreement between parent and the center regarding daily transportation between the home and the center and the center and the school. If parents have a third-party transportation arrangement, verification and details of the arrangement shall be maintained in the child’s file.

6. A copy of the child’s health history provided by the child’s parent or other caretaker, which need not be signed or certified by a health care provider, shall be on file in the center and shall be available to appropriate staff.

7. Daily attendance records that include the time in and time out for each child.

8. Prior written permission of parent for each off-site activity.

9. Immunization Record.

   (i) The agency shall maintain a written record in the child’s file, as set forth in subparagraphs (b) and (c) below, verifying that the child has been immunized according to current Department of Health guidelines.

   (ii) Exceptions to this immunization record requirement may be made only if:

   (I) The child’s physician or the health department provides a signed and dated statement, giving a medical reason why the child should not be given a specified immunization; or

   (II) The child’s parent provides a signed written statement that such immunizations conflict with his/her religious tenets and practices.

10. Reports of Incidents, Accidents, Injuries and Fatalities.

   (i) Incidents, accidents and injuries shall be reported to the parent as soon as possible, but no later than the child’s release to the parent or authorized representative.

   (ii) Incidents, accidents and injuries to children shall be documented immediately as follows:

   (I) Date and time of occurrence;

   (II) Description of circumstances; and

   (III) Action(s) taken by the agency.

Current through rules effective April 2014.
(iii) Documentation of incidents, accidents and injuries to children shall be filed in the child’s record no later than one (1) business day immediately following the occurrence.

(iv) The Department shall be notified of any child fatality at the agency no later than one (1) calendar day immediately following the death.

(b) Preschool Children’s Record Requirements.

1. Additional information for infants, toddlers and all non-verbal children shall be recorded and shared with parents daily as follows: the time and amount of feeding, any incidence of excessive spitting up, toileting and/or times of diaper changes, sleep patterns, and developmental progress.

2. Before a child under the age of thirty (30) months of age is accepted for care, the parent shall provide proof of a physical examination within three (3) months prior to admission, signed or stamped by a physician or health care provider. This record must be kept on file at the agency.

3. A copy of each preschool child’s immunization record, signed or stamped by a certified health care provider, shall be on file in the child care center and shall be available to the appropriate staff.

(c) School-age Children’s Record Requirements.

1. The information form for school-age children shall list the name, address, and phone number of the school the child attends.

2. Before a school-age child is accepted for care, the center shall have on file a statement from the parent (or the school) that the child’s immunizations are current and that his/her health record is on file at the specified school which the child attends.

3. The records of any child who is five (5) years old in an agency which lacks approved kindergarten status for purposes of T.C.A. § 49-6-201 shall include a signed acknowledgment by the child’s parents that recognizes that the child’s attendance does not satisfy the mandatory kindergarten prerequisite for the child’s enrollment in first grade. The statement of acknowledgment shall be signed by the parent and maintained in the child’s file.

(d) Record Requirements for Children with Special Needs. A daily activity record that consists of a daily accounting of anything and everything the child did that day for children with special needs must be maintained.

(9) Staff Record Requirements Shall Include:

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

Current through rules effective April 2014.
(b) Educational background and educational experiences, including dates and places of diplomas received, and conferences, courses, and workshops attended in the preceding year;

(c) Documentation, signed by the examining licensed physician, licensed psychologist, licensed clinician, Nurse Practitioner or Physician’s Assistant, verifying that the staff person is physically, mentally and emotionally capable of safely and appropriately providing care for children in a group setting. The documentation shall be on file within ten (10) calendar days of employment or starting to work;

(d) An updated statement of each staff member’s physical health shall be obtained every third (3rd) year, or more often if deemed necessary by the Department;

(e) At least three (3) references from non-relatives, either written or with documented interviews of each reference, on each new staff member;

(f) Written, verified record of employment history;

(g) Documentation of annual performance reviews;

(h) Date of employment and date of separation from the agency;

(i) Daily attendance (including time in/out) of staff;

(j) Signed and completed criminal history disclosure form;

(k) Verification of criminal background check results;

(l) Verification of Vulnerable Persons Registry results;

(m) Driver records shall additionally contain:

1. Copy of driver’s license showing proper endorsement;

2. Verification of a passed drug screen; and

3. Verification of Cardiopulmonary Resuscitation (CPR) and First Aid certifications; and

(n) Volunteer Records. Records of volunteers shall be maintained on-site at the agency and must include the names, addresses, telephone numbers and dates of service for all volunteers.

Current through rules effective April 2014.
(10) Right to Privacy/Confidentiality.

The licensee and agency staff shall not disclose or knowingly permit the use by other persons of any information concerning a child or family except as required by law, regulation or court order, or as may be necessary to be disclosed to public authorities in the performance of their duties and which may be necessary for the health, safety, or welfare of any child enrolled at the center or of the child’s family.

(11) Posting of License, Report Card, and Other Required Documentation

(a) During the hours of operation, the current license to operate the child care center shall be posted near the main entrance in a conspicuous location.

(b) During the hours of operation, the agency Report Card shall be posted near the main entrance in a conspicuous location.

(c) The Department’s toll-free child care complaint number shall be posted in a conspicuous location.

(d) The Department of Children’s Services’ child abuse reporting number shall be posted near the main entrance in a conspicuous location and at each telephone.

(e) A copy of all current applicable Department licensing rules shall be maintained in a central space and available to all staff and parents.

(f) No smoking signs shall be posted in a conspicuous manner; provided, however, that such signs are not required in child care agencies which are operated within private residences.

(g) The agency shall post any other materials as directed by the Department.

(12) Release of Children.

(a) Children shall only be released to a responsible designated person in accordance with the child release plan required by these rules. The agency shall verify the identity of the authorized person by requiring presentation of a photo identification.

(b) The person to whom the child is released must sign the child out of the agency.

(c) Children shall not be released to anyone whose behavior may, as deemed by a reasonable person, place the child in imminent risk; provided, however, that if the agency reasonably believes that refusal to release the child could place staff or other children in imminent risk the agency may release the child, but must immediately call 911 or other local emergency services number.

Tenn. Comp. R. & Regs. 1240-04-03-.06

Current through rules effective April 2014.
1240-04-03-.06. SUPERVISION.

(1) Supervision Procedures.

(a) Agency Responsibility for the Children’s Supervision.

1. The management of the agency shall maintain a system that enables all children in the agency’s care to receive a level of supervision of their status and activities that is appropriate to their age and their developmental, physical and mental status so as ensure their health and safety and that allows agency personnel to know the whereabouts of each child in their care.

2. This system shall include a mandatory visual inspection of all areas of the building and grounds immediately prior to closing the agency for the day in order to ensure that no children have been unintentionally left in any part of the agency’s facilities or in any vehicles that the agency uses to transport children.

(b) Children six (6) weeks of age through nine (9) years of age:

1. The adult must be able to hear the child at all times, must be able to see the child with a quick glance, and must be able to physically respond immediately.

2. Exception during mealtime: An adult must be in the direct sight and sound of children ages six (6) weeks through five (5) years, not in kindergarten, while the child is eating.

(c) Children ten (10) years of age and older:

1. The adult shall know the whereabouts and activities of the children at all times and must be able to physically respond immediately.

2. Each child shall be greeted and received by the specific caregiver assigned who will have ultimate responsibility and accountability for their supervision, oversight and care.

3. When children, age ten (10) and above, are permitted to leave one caregiver’s assigned area and go to another, the center shall implement a system to track the whereabouts of each child and recognize the transfer of responsibility from one caregiver to another.

(d) Mixed-age Groups. When children ages ten (10) years or above are grouped with children under ten (10) years of age, the minimum supervision requirements for children ages six (6) weeks through nine (9) years, as set forth in subparagraph (b) above, shall be followed.

(e) Helper devices such as mirrors, electronic sound monitors, etc. may be used as appropriate to meet these current through rules effective April 2014.
(f) Caregivers shall monitor children’s toileting and be aware of their activities while respecting the privacy needs of the child.

(g) When more than twelve (12) children are present on the premises, but a second (2nd) adult is not required by the adult:child ratio rules contained in this Chapter, a second (2nd) adult must be physically available on the premises.

(h) The agency shall maintain a plan, approved by the Department, that enables a caregiver in an emergency situation to call a second (2nd) adult who can respond quickly while maintaining as much supervision of the children in care as is possible under the circumstances.

(i) If children with special needs are enrolled, Section 504 of the federal Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) guidelines shall be consulted regarding the number of caregivers that a reasonable accommodation of a child’s disability may require.

(j) All children for whom care is provided at any one time shall be included in the agency’s enrollment, square footage allowance, and licensed capacity.

(k) Auxiliary staff may be used as emergency substitutes if their qualifications permit, but not while performing other duties.

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

(m) When more than twelve (12) children in first grade and above are present, a separate group, a separate space, and a separate program shall be provided for them.

(2) Assignment of Children to Groups.

(a) Each child must be on roll in a defined group and assigned to that group with a specific caregiver(s).

(b) Maximum group size requirements shall be maintained at all times with the exception of meals served in common dining rooms, napping in common nap rooms, or outdoors on the playground.

(c) When infants are cared for in a center with older children, they shall not be grouped with children older than thirty (30) months of age, and a separate area shall be provided for them.

(d) Extended Care. Children age thirteen (13) months and older may be grouped together while sleeping in overnight care.
(e) In order to assure the continuity of care for children and their caregivers, the children shall be kept with the same group throughout the day and shall not be moved, shuffled, or promoted to a new group until required based upon the developmental needs of the child; provided, however, that:

1. Groups, excluding infants and toddlers, may be combined for short periods for a special activity, e.g., special assembly, visiting performers or community helpers, etc., of no more than thirty (30) minutes duration per day as long as adult:child ratios are met.

2. Groups, excluding infants and toddlers, may be combined, for up to one (1) hour at the beginning of the day and for up to one (1) hour at the end of the day as set forth in Adult:Child Ratio Chart 3 in part (3)(d)3 below.

(f) Each group must have a “home base” with enough space for the entire group.

(3) Required Adult:Child Ratios.

(a) The adult:child ratios shall be maintained by the child care agency while the children are indoors and on the playground.

(b) Adult:child ratios and group sizes may exceed the required limit by up to ten percent (10%), rounded to the nearest whole number, for no more frequently than three (3) days per week; provided, however:

1. Infant and toddler groups may never exceed the required ratios and group sizes;

2. The licensed capacity of the classroom may not be exceeded; and

3. The Department may modify or terminate this 10% variance in individual cases according to the provisions for issuance of a restricted license pursuant to T.C.A. § 71-3-502(d)(7)(B).

(c) Any number of children in excess of the adult:child ratios requires a second qualified adult caregiver; provider, however, that the maximum group size shall not be exceeded.

(d) Adult:Child Ratio Charts


<table>
<thead>
<tr>
<th>Single-Age Grouping</th>
<th>8</th>
<th>12</th>
<th>14</th>
<th>16</th>
<th>18</th>
<th>20</th>
<th>No Max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infants: Six (6) wks.-Fifteen (15) mos.</td>
<td>1:4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Toddlers (Twelve (12) mos.-Thirty (30) mos.)</td>
<td>1:6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Current through rules effective April 2014.
Tennessee Rules and Regulations Currentness _1240. Department of Human Services _1240-04. Adult and Family Services Division _Chapter 1240-04-01. Standards for Group Child Care Homes (Refs & Annos)

Two (2) years (Twenty-Four (24) mos.-Thirty-Five (35) mos.) 1:7

<table>
<thead>
<tr>
<th>Three (3) years</th>
<th>1:9</th>
</tr>
</thead>
<tbody>
<tr>
<td>Four (4) years</td>
<td>1:13</td>
</tr>
<tr>
<td>Five (5) years</td>
<td>1:16</td>
</tr>
</tbody>
</table>

School-Age (K and above) 1:20

2. Chart 2 - Multi-Age Grouping & Adult:Child Ratio Chart.

<table>
<thead>
<tr>
<th>Multi-Age Grouping</th>
<th>10</th>
<th>16</th>
<th>18</th>
<th>20</th>
<th>22</th>
<th>24</th>
<th>No Max</th>
</tr>
</thead>
</table>

Infants/Toddlers: Six (6) wks.-Thirty (30) mos. 1:5

Two (2)-Four (4) years 1:8

Two and One-Half (2 ½)-Three (3) years (Thirty (30)-Forty-Seven(47) mos.) 1:9

Two and One-Half (2 ½)-Five (5) years 1:11

Two and One-Half (2 ½)-Twelve (12) years 1:10

Three (3)-Five (5) years (includes Three (3)-Four (4) years) 1:13

Four (4)-Five (5) years 1:16

Five (5)-Twelve (12) years 1:20

3. Chart 3 - Allowable Combined Grouping & Adult:Child Ratio Chart for first/last hour of each day only:

<table>
<thead>
<tr>
<th>Maximum Grouping Size and Adult:Child Ratios</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
</tr>
</tbody>
</table>

2.5-12 years 1:10

3-12 years 1:15

4-12 years 1:20

Current through rules effective April 2014.
(4) Naptime Supervision (Requirements for Naptime and Nighttime Care).

(a) At naptime and during nighttime care, after the children have settled down, adult:child ratios may be relaxed so long as the children are adequately protected and all of the following requirements are met:

1. At least one (1) adult shall be awake and supervising the children in each nap room/sleeping area;

2. Infant/toddler ratios shall be maintained; and

3. The adult:child ratio for children ages thirty-one (31) months and above can be fifty percent (50%) of the required ratio if there are enough adults on the premises so that the adult:child ratio required for children when they are awake shall be met immediately in an emergency.

(b) Maximum group size limits do not apply as long as the appropriate adult:child ratio is met at the fifty percent (50%) level.

(c) Sudden Infant Death Syndrome. Because of the possibility of Sudden Infant Death Syndrome:

1. Infants shall be positioned on their backs when placed in a crib for sleeping.

2. In order to avoid the risk of smothering, soft bedding for infants is prohibited.

3. Infants shall not be wrapped tightly or swaddled in blankets for sleeping.

4. Infants shall be touched by a caregiver every fifteen (15) minutes in order to check breathing and body temperature.

5. Pillows shall be prohibited for infants.

6. If a child appears not to be breathing, the agency must immediately begin CPR and call for emergency medical assistance.

7. Before any caregiver can assume caregiving duties of any type in an infant room they shall be oriented in the foregoing SIDS procedures.

(d) Naproom Lighting. The areas where infants sleep shall be lit in a manner which allows the caregiver to quickly, at a glance, verify that the child’s head is uncovered, that the child is breathing, and otherwise visually verify the child’s condition.

(5) Playground Supervision.

Current through rules effective April 2014.
(a) The same adult:child ratios are applicable for the playground as in the classrooms.

(b) A playground supervision plan shall be written and implemented which includes:

1. Arrival and departure procedures;

2. Supervision assignments of staff to assure that all areas of the playground can be seen so that all children can remain within sight of the caregivers;

3. Identification of which staff will merely supervise in their assigned zone while other caregivers, if any, interact with children as play facilitators;

4. Emergency plans specific to a variety of circumstances, such as, child injury, weather evacuation, toileting and other personal care needs of children or staff, etc.; and

5. A communication link among playground supervisors and a designated staff person, if available, inside the agency.

(6) Supervision During Off-Site Activities.

(a) Preschool Children. The adult:child ratios in charts 1 and 2 must be doubled during off-site activities.

(b) School-age Children.

1. The number of trained caregivers required to be present on off-site activities shall be at a minimum, equivalent to the number that would be required in the classroom; additional adults to meet the following off-site ratios in chart 4 may be caregivers, volunteers or unpaid staff.

2. Chart 4 - Off-Site Activities for School-age Children

<table>
<thead>
<tr>
<th>Number of Children On Activity</th>
<th>Trained Caregivers</th>
<th>Additional Adults</th>
<th>Total Adults Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - 20</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>21 - 30</td>
<td>2</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>31 - 40</td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
</tbody>
</table>

Current through rules effective April 2014.
(c) A minimum of two (2) adults is required for any off-site activity.

(d) The center must maintain a system utilizing an off-site attendance roll which tracks the whereabouts of each child while off the center premises.

(7) Supervision While Swimming. When children are swimming, the adult:child ratios in Chart 5 and the following requirements shall be met:

(a) Chart 5 - Swimming Adult:Child Ratio Chart.

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infants(Six (6) wks-Twelve (12) months)</td>
<td>1:1</td>
</tr>
<tr>
<td>Toddlers/twos (Thirteen (13) -Thirty-Five (35) months)</td>
<td>1:2</td>
</tr>
<tr>
<td>Three (3) Year Olds</td>
<td>1:4</td>
</tr>
<tr>
<td>Four (4) Year Olds</td>
<td>1:6</td>
</tr>
<tr>
<td>Five (5) Year Olds</td>
<td>1:8</td>
</tr>
<tr>
<td>School-Age (K And Above)</td>
<td>1:10</td>
</tr>
</tbody>
</table>

(b) Although group swimming for infants and toddlers is not prohibited, it is not recommended due to the high risk.

(c) At least one (1) adult present shall have a current certificate in advanced aquatic lifesaving skills. This person must supervise from above the level of the swimmers, preferably from an elevated lifeguard chair or otherwise from the pool deck.

(d) The lifeguard may not be included in the required adult:child ratio while performing lifeguard duties.

Current through rules effective April 2014.
(e) Remaining caregivers shall supervise children who are both in and out of the water.

(8) Transportation Supervision. Supervision for transportation of children shall comply with rules in 1240-04-03-.13.

Tenn. Comp. R. & Regs. 1240-04-03-.07

1240-04-03-.07. STAFF.

(1) Responsibility for Staff.

(a) The board, owner, applicant/licensee, or other designated agent of the child care center shall be responsible for selecting qualified individuals of suitable character and ability to work with children.

(b) The director, with the guidance of the board or owner of the center, shall be responsible for supervision, training and evaluation of the staff, the program and the day-to-day operation of the center.

(c) Each location where children are kept shall have an on-site director.

(d) To be designated as such, the on-site director of a center which is in operation up to twelve (12) hours a day shall be physically present in the center daily at least half of the total hours of operation. If a program operates more than one (1) shift the on-site director shall be physically present at least one shift.

(e) To be designated as the director or person in charge (on a daily basis) of a multi-site child care program, he/she shall be employed full-time in that capacity.

(f) An assistant director or other staff member shall be designated to be in charge in the absence of the director and all staff shall be notified of this designation.

(g) Management shall evaluate all staff in the performance of their duties. Caregivers shall be evaluated for knowledge and understanding of growth and development patterns of children and understanding of appropriate activities for children as well as those with special needs.

(2) General Staff Qualifications.

(a) Every staff person, including auxiliary staff, substitutes, volunteers, and practicum students, shall be physically, mentally, and emotionally capable of using the appropriate judgment for the care of children and otherwise performing his/her duties satisfactorily.

(b) A person who has a physical, mental, or emotional condition which is in any way potentially harmful to children shall not be present with the children.

Current through rules effective April 2014.
(c) Every staff person, both paid and unpaid, who are under the age of eighteen (18) years must be supervised by an adult while in the presence of children.

(d) At least one (1) adult available on the premises at all times during child care operating hours must be able to read and write English.

(e) Prior to assuming duties, each new employee shall receive orientation in, and be able to explain:

1. Program philosophy;
2. Job description;
3. Emergency procedures;
4. Policies regarding discipline of children;
5. Policies regarding the reporting of child abuse; and

(f) Within the first two (2) weeks on the job, each employee (including auxiliary staff, such as bus driver, cook, etc.) shall receive instruction in:

1. Child abuse detection, reporting, and prevention;
2. Parent-center communication;
3. Disease control and health promotion;
4. An overview of licensing requirements; and
5. Information on risks of infection to female employees of childbearing age.

(g) All training must be documented in the agency’s records and be available for review by the Department’s staff at anytime.

(h) The agency must maintain written documentation that each employee has read the full set of all applicable licensure rules. In addition, a copy of such rules shall be maintained in an area that is readily accessible to all staff.

Current through rules effective April 2014.
(3) Multi-Site Personnel Qualifications.

(a) Multi-Site Coordinator. The multi-site coordinator must meet the same requirements listed below for a single-site child care center director.

(b) Qualifications of On-Site Director under a Multi-Site Coordinator.

1. At least two (2) years of college training or a Department-recognized credential in addition to at least one (1) year of full-time (paid or unpaid) documented work experience with young children in a group setting; or

2. A high school diploma or equivalent educational credential recognized by the Department in addition to at least two (2) years of full-time (paid or unpaid) documented work experience with young children in a group setting.

(4) Qualifications for Director of a Single-Site Child Care Center.

(a) The director shall meet at least one (1) of the minimum qualifications listed in the chart below:

<table>
<thead>
<tr>
<th>If Minimum Education Is:</th>
<th>The Minimum Group Care Experience Required Is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Graduation from an accredited four-year (4-year) college</td>
<td>(1) year of full-time (paid or unpaid) experience in a group setting</td>
</tr>
<tr>
<td>Sixty (60) semester hours (two [2] years) of college training, with at least thirty (30) hours of which shall be in business or management, child or youth development, early childhood education or related field</td>
<td>Two (2) years of full-time (paid or unpaid) experience in a group setting</td>
</tr>
<tr>
<td>High School Diploma (or Department-recognized equivalent), and Tennessee Early Childhood Training Alliance (TECTA) certificate for completing thirty (30) clock hours of orientation training, or the equivalent as recognized by the Department</td>
<td>Four (4) years of full-time (paid or unpaid) experience in a group setting</td>
</tr>
<tr>
<td>Has been continuously employed as an on-site child care director or a child care agency owner since July 1, 2000</td>
<td>Not Applicable</td>
</tr>
</tbody>
</table>

(b) Training Requirements:

Current through rules effective April 2014.
1. Prior to issuance of the first annual license, Owners (or a designee thereof who is not the on-site director) and directors shall complete a child care orientation course sponsored by the Department.

2. During the first year of employment a new director shall:

   (i) Complete an orientation course sponsored by the Department within three (3) months of assuming her position; provided, however, that this course shall not be required if the director has:

   (I) Received specific training meeting the requirements of this part within three (3) years prior to employment; or

   (II) Earned a Bachelors degree, an Associates degree in child development or early childhood education, a CDA credential, or a CCP credential;

   (ii) Have evidence of receiving at least thirty-six (36) hours of Department-recognized, competency-based training, at least six (6) hours of which must be in administration, management or supervisory training; or

   (iii) Earn credit for the year in one (1) academic course in administration, child development, early childhood education, health/safety or other related field.

3. After the first (1st) year of employment, the director shall:

   (i) Earn credit during the year in one academic course in administration, child development, early childhood education, health/safety or other related field; or

   (ii) Have evidence of receiving at least eighteen (18) clock hours annually in Department-recognized workshops, competency-based training, or one-to-one consulting sessions:

       (I) Six (6) hours of training shall be in administration, management or supervisory training; and

       (II) Four (4) hours of the required eighteen (18) hours may be earned by conducting training.

(5) Assistant Director Qualifications.

   (a) The on-site assistant director shall have at least two (2) years of college training or a Department-recognized credential and one (1) year of full-time (paid or unpaid) documented work experience in a group setting; or

   (b) The on-site assistant director shall have earned a high school diploma or equivalent educational credential.
(6) Caregiver Qualifications.

(a) Each caregiver shall be at least eighteen (18) years of age. Exception: Sixteen (16) and seventeen (17) year-old students currently enrolled in a Department-recognized vocational child care program may be counted in the adult-child ratio; provided, however, that they shall always be under the direct supervision of an adult and shall not be left alone with a group of children.

(b) Each group shall have at least one (1) caregiver present who has a high school diploma or equivalent educational credential as recognized by the Department.

(c) Training for Caregivers During the First (1st) Year of Employment.

1. New caregivers shall complete, within the first (1st) thirty (30) days of employment with the agency, two (2) clock hours of pre-service orientation training offered or recognized by the Department. Pending completion of the orientation training, the caregiver’s employment status as a caregiver with the agency is conditional.

2. New caregivers shall additionally complete sixteen (16) hours of Department-recognized, competency-based training during the first (1st) year of employment, six (6) hours of which must be completed within the first six (6) months of employment.

3. Failure of the caregiver to complete the required two (2) hours of pre-service orientation and/or failure to complete the required six (6) hours of training within the first (1st) six (6) months of employment shall require that the employee be removed from caregiver duties until completion of the training.

4. Exception. Caregivers who have been employed in child care during the last three (3) years, hold a Bachelors or Associates degree in child development or a related field, or who hold a CDA credential or CCP credential as recognized by the Department shall instead comply with the training requirements for experienced caregivers required in subparagraph (d) below.

(d) Training for Caregivers After the First (1st) Year of Employment

1. Experienced caregivers shall complete at least twelve (12) clock hours annually of Department-recognized, competency-based training.

2. A maximum of two (2) hours training credit annually may be credited for Child and Adult Care Food Program (CACFP) training.

3. At least six (6) hours of the required training must be non-agency based, e.g., obtained outside of the center.
4. Up to four (4) hours training credit annually may be earned by conducting training.

5. Credit for Tennessee Early Childhood Training Alliance Orientation Training. Completion of a thirty (30) hour orientation class through the TECTA program shall satisfy the caregiver’s minimum annual training requirements for two (2) years.

(7) Substitutes.

(a) The names, addresses, telephone numbers and dates of service shall be recorded for all substitutes in the staff personnel records of the agency.

(b) Substitutes shall comply with the same orientation requirements of these rules for all agency staff.

(c) Substitutes who have acted as caregivers for two hundred (200) or more hours in the previous calendar year shall meet the training requirements contained in these requirements for caregivers.

(d) Substitutes providing services for thirty-six (36) hours or more in a calendar year shall:

1. Meet the criminal background check requirements contained in these rules; and

2. Meet the same requirements as regular staff for the physical examination required by these rules.

(e) Practicum Students. Persons serving temporarily as caregivers in field service placements as part of an educational course of study or other curriculum requirement shall not be considered as substitutes for purposes of this paragraph.

(8) Volunteers.

(a) Volunteers may be used to provide services and supplement the required caregivers or substitutes without payment, but are not counted to meet the adult:child ratios. If counted in the adult:child ratio, or provide services for more than twenty (20) hours per calendar week, volunteers shall meet the qualifications for substitutes as set forth in paragraph 1240-04-03-.07(7) above.

(b) Management shall be responsible for and supervise the activities of volunteers to assure safety of the children.

(c) Records for volunteers shall be maintained as required in 1240-04-03-.05.

(9) Criminal Background and Vulnerable Persons Registry Review Requirements.

Current through rules effective April 2014.
(a) Individuals Requiring a Fingerprint Criminal Background Review and Abuse (Vulnerable Persons) Registry Check:

1. Any individual applying to work as a paid employee, director or manager of the child care agency in a position that will require or allow the individual to have contact with children at any time;

2. Any individual applying to work as a new substitute and who is expected to offer, or who provides, at least thirty (36) hours of substitute services to the agency in any calendar year;

3. Any individual applying for a license to operate a child care agency that is not the renewal of an existing license, or any individual who otherwise seeks to be an operator, as defined by the rules of the Department, of a child care agency as defined in § 71-3-501, and who will, in the course of their role as licensee, have significant contact, as determined by the Department, with the children in care. For purposes of this paragraph, “operator” shall be an individual who is an owner or administrator of a child care agency or child care system;

4. Residents of a New Agency. Any individual who is a resident of the child care agency and who is fifteen (15) years of age or older upon the date the agency receives its initial temporary license or, if the agency has been issued an annual license, then upon the date the agency received its annual license; and

5. New Residents of an Existing Agency. Any individual who is fifteen (15) years of age or older upon moving into a licensed/approved child care agency.

(b) Pending outcome of the criminal background check as described in this paragraph and the outcome of the review of the individual’s status on the Department of Health’s Vulnerable Persons Registry, the applicant for employment or a substitute or volunteer position, or for a license to operate shall be conditional and shall be dependent upon the results of these background checks.

(c) Requirements for Submission of a Fingerprint Sample.

1. Criminal History Disclosure Form. Individuals identified in subparagraph (a) shall complete and sign the Criminal History Disclosure Form provided by the Department.

   (i) The failure to properly complete all sections of the Criminal History Disclosure Form shall result in the individual being prohibited from working, substituting, residing in or acting as a licensee for the child care agency.

   (ii) The failure to disclose all criminal history information may result in the individual being:

   (I) Excluded from working, directing, managing, operating, substituting, volunteering, residing in or acting as a licensee in any child care agency licensed by the Department; and

   (II) Referred for criminal prosecution pursuant to the provisions of state law.

Current through rules effective April 2014.
2. Fingerprint Sample. The child care agency shall be responsible for obtaining, and submitting the fingerprint sample of any person required by this Chapter in the form and manner directed by the Department:

(i) Within ten (10) calendar days of the first day of beginning employment or substitute status;

(ii) Within ten (10) calendar days of the license application or seeking operator status;

(iii) Within ten (10) calendar days of the application for an initial license for a facility in which the person resides; or

(iv) Within ten (10) calendar days after the resident moves into the child care facility.

3. Vulnerable Persons Registry. The child care agency shall be responsible for determining, within the same time periods as set forth in part (c)2 above, the status on the Department of Health’s Vulnerable Persons Registry of any individual who is required by subparagraph (a) above to undergo a criminal history background check. Verification of such status check shall be maintained in the employee’s record pursuant to the requirements set forth in 1240-04-03-.05.

4. Unless otherwise notified by the Department, the child care agency shall be responsible for all costs associated with obtaining the fingerprint sample, and the Department will pay for the costs of the criminal background check by the Tennessee Bureau of Investigation.

(10) Exclusion of Persons from Contact with Children.

(a) Prohibited Criminal or Abuse or Neglect History.

1. No individual with a prohibited criminal history as defined below, regardless of whether such individual is required by these rules to undergo a criminal background check, may work, substitute or volunteer in a child care agency, or be a resident, licensee, director or manager of a child care agency who has access to children, or be an operator who has significant contact with children or otherwise have unrestricted access to children in any manner whatsoever.

2. An individual shall be immediately and automatically excluded from child care or any contact whatsoever with children, as described above, if the individual’s criminal history includes:

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

(ii) A pending juvenile action or previous juvenile adjudication, which, if an adult, would constitute a criminal offense; and
(iii) Any of the circumstances in subparts (i) or (ii) above involves any of the following criminal offenses:

(I) Any offense (including a lesser included offense) involving the physical, sexual or emotional abuse or gross neglect of a child, or involving a threat to the health, safety or welfare of a child;

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

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

3. An individual shall also be immediately and automatically excluded from child care or from access in any manner whatsoever to the children in the care of the agency, if the individual:

   (i) Reveals a prohibited or potentially prohibited criminal history on the Criminal History Disclosure Form; or

   (ii) Is listed on the Department of Health’s Vulnerable Persons Registry; and/or

   (iii) Is known to the management or licensee of a child care agency as a perpetrator of child abuse or child sexual abuse or to have a prohibited criminal history, or who is identified to the child care agency’s management or licensee by the Department of Human Services or by the Department of Children’s Services as a validated perpetrator of abuse of a child based upon an investigation conducted by the Department of Children’s Services or by the child protective services agency of any other state; or, who at anytime is identified by any person or entity to the child care agency’s management or licensee and is confirmed by the Department of Human Services as having a prohibited criminal history.

4. Exclusion from driving duties. An individual with a prohibited history as set forth below shall be immediately and automatically excluded from providing driving duties on behalf of the child care agency if the individual:

   (i) Has a pending criminal action (including warrants, indictments, presentments, etc.), is completing a pretrial diversion, or has been convicted of or pled guilty to any offense involving the use of a motor vehicle while under the influence of any intoxicant, which constitutes a violation of T.C.A. §§ 39-13-213; 55-10-101; 55-10-102 or 55-10-401; or

   (ii) Has been convicted of or pled guilty to any felony involving the use of a motor vehicle while under the influence of any intoxicant. In such case, the individual shall not be employed or otherwise serve as a driver for a child care agency for a period of five (5) years from the date of the conviction or guilty plea.

5. Exclusions for Child Neglect. An individual who has been identified by the Department of Children’s Services as having neglected a child based on an investigation conducted by that Department or any child protective services agency of any state, and who has not been criminally charged or convicted or pled

Current through rules effective April 2014.
(b) The child care agency shall immediately review the results of the criminal background check and Vulnerable Persons Registry review upon receipt and shall immediately exclude any individual with a prohibited history as directed by the Department.

(c) Failure to exclude individuals with a criminal history or abuse or neglect finding.

Failure to immediately exclude any individual subject to exclusion or supervision pursuant to this subchapter or T.C.A. §71-3-507, as directed by the Department, may result in the immediate suspension, denial or revocation of the child care agency’s license.

(11) Waivers from Exclusions Due to Criminal or Abuse or Neglect History.

(a) Any person who is excluded or whose license is denied based upon the results of the criminal history background review or based upon any other determination may request in writing to the Department’s Director of Licensing within ten (10) calendar days of receiving notice of such exclusion or denial, a waiver from these automatic exclusion requirements.

(b) Excluded individuals, prior to receiving official notice of the exclusion or denial from the Department, may also make a written request for a waiver by letter or directly on the Department’s Criminal History Disclosure Form.

(c) Requests for a waiver shall state the basis for the request, including any extenuating or mitigating circumstances that would, in the person’s opinion, clearly warrant an exemption from the exclusion. Any documentary evidence may also be submitted with the request.

(d) Requests for waivers shall be heard by an advisory committee and reviewed by the Department in accordance with the provisions of T.C.A. §71-3-507.

(e) Any person who is excluded from providing care or services to children under any provisions of this subchapter shall remain excluded pending the outcome of any exemption review and appeals.

(12) Supplemental Background Checks

(a) The Department may, at anytime, request that the criminal background or status on the Department of Health’s Vulnerable Persons Registry of any individuals having access to children under any of the circumstances set forth in this subchapter be reviewed using the processes described above or in T.C.A. § 71-3-507. All other provisions applicable to any pre-employment or post-employment, residential or access status of any individual shall apply to any background review conducted pursuant to this paragraph (12).

(b) The employment status of persons for whom a post-employment criminal background check was conducted, or the status of existing licensees or operators, substitutes, volunteers or residents of a child care agency for whom a criminal background check was conducted after license approval or after employment or
(1) General.

(a) The manufacturer’s safety instructions shall be followed for the use and/or installation of all indoor and outdoor equipment and appliances. Such instructions shall be retained and communicated to all appropriate staff.

(b) All indoor and outdoor equipment shall be well-made and safe. There shall be no dangerous angles, no sharp edges, splinters, protruding nails, nuts and bolts, heavy or hard swing seats, head entrapment spaces, no open S-hooks or pinch points, etc. within children’s reach.

(c) Electrical cords on equipment for children shall be inaccessible to the children.

(d) Damaged or unsteady equipment shall be repaired or removed from the room or playground immediately.

(e) Equipment shall be kept clean by washing frequently with soap and water.

(f) There shall be developmentally-appropriate equipment and furnishings for each age group in attendance.

(g) Individual lockers or cubbies, separate hooks and shelves or other containers, placed at children’s reaching level, shall be provided for each child’s belongings.

(h) In infant/toddler rooms, equipment and space shall be provided for climbing, crawling, and pulling without the restraint of playpens or cribs.

(2) Indoor Play Equipment.

(a) Pieces of equipment, such as television sets, bookcases, shelves and appliances, shall be secured or supported so that they will not fall or tip over.

(b) Sufficient indoor equipment, materials, and toys shall be available to:

1. Meet the active and quiet play needs of all children enrolled;
Tennessee Rules and Regulations Currentness _1240. Department of Human Services _1240-04. Adult and Family Services Division _Chapter 1240-04-01. Standards for Group Child Care Homes (Refs & Annos)

2. Provide a variety of developmentally appropriate activities so that each child has at least three (3) choices during play time; and

3. Adequately provide for all the activities required in the Program subchapter (1240-04-03-.09) of these rules.

(c) Toys, educational materials, and play materials shall be organized and displayed within children’s reach so that they can select and return items independently.

(d) Toys and teaching aids that are small or that have small parts that can be inhaled or swallowed shall be inaccessible to infants and toddlers.

(3) Outdoor Play Equipment.

(a) There shall be developmentally appropriate outdoor play equipment for all children who are in care more than three (3) daylight hours.

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

(c) All outdoor play equipment shall be placed to avoid injury:

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

2. Agencies with a playground continually licensed since prior to January 1, 2002, shall be permitted to maintain fall zones of at least four (4) feet; provided, however that any expansion or addition shall comply with the six (6) foot fall zone required by part 1 above.

(d) Anchorage of Equipment.

1. Supports for climbers, swings, and other heavy equipment that could cause injury if toppled shall be securely anchored to the ground, even if the equipment is designed to be portable.

2. Portable equipment shall otherwise be anchored to the ground if the height and weight of the equipment exceeds the height and weight of the smallest child who will use the equipment.

(e) An acceptable resilient surfacing material, as recognized by the Department, shall cover fall zones in accordance with the following chart:

Current through rules effective April 2014.
### Resilient Surfacing Material

<table>
<thead>
<tr>
<th>Material</th>
<th>Minimum Acceptable Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wood chips or Mulch</td>
<td>Six (6) inches</td>
</tr>
<tr>
<td>Double Shredded Bark</td>
<td>Six (6) inches</td>
</tr>
<tr>
<td>Pea Gravel</td>
<td>Six (6) inches</td>
</tr>
<tr>
<td>Medium Gravel</td>
<td>Eight (8) inches</td>
</tr>
<tr>
<td>Fine Sand</td>
<td>Eight (8) inches</td>
</tr>
<tr>
<td>Course Sand</td>
<td>Eight (8) inches</td>
</tr>
<tr>
<td>Artificial (Manufactured) Surface</td>
<td>As Recommended by Manufacturer</td>
</tr>
</tbody>
</table>

(4) Naptime and Sleeping Equipment.

(a) Napping or sleeping equipment shall be available for each preschool child who is in care for six (6) hours or more.

(b) A quiet rest area and cots or mats shall be available for all children who want to rest or nap; provided, however, that no child shall be forced to nap.

(c) No child shall be forced to stay on a cot or on a mat for an extended period of time.

(d) All nap/sleep equipment shall be clean and in good repair, and shall comply with the following requirements:

1. Individual cots or two-inch (2") mats shall be provided for children ages twelve (12) months through five (5) years.

2. Individual beds or cots shall be provided for children sleeping for extended periods of more than two and one half (2 1/2) hours, such as during nighttime care.

3. Each child under twelve (12) months shall have an individual, free-standing, crib at least twenty-two
Tennessee Rules and Regulations Currentness _1240. Department of Human Services _1240-04. Adult and Family Services Division _Chapter 1240-04-01. Standards for Group Child Care Homes (Refs & Annos)

4. Mattresses and foam pads shall be upholstered with a safe, waterproof material.

5. A clean sheet or towel shall be used to cover whatever the child sleeps on.

6. A clean coverlet shall be available to each child.

7. Soiled sheets and coverlets shall be replaced immediately.

8. For health and safety reasons each crib, cot, bed or mat shall be labeled to assure that each child naps on his own bedding.

Tenn. Comp. R. & Regs. 1240-04-03-.09

(1) Schedule and Routines.

(a) Routines such as snacks, meals, and rest shall occur at approximately the same time each day.

(b) There shall be a balance between child’s choice and adult-directed activities.

(c) There shall be alternating periods of vigorous activity and quiet play or rest throughout the day.

(d) Special consideration shall be given to providing early morning and late afternoon activities that will help children cope with possible unhappiness over separation from parents and end-of-day fatigue.

(e) Each caregiver shall be responsible for providing consistent care for a specific infant(s)/toddler(s). “Consistent care” includes, but is not limited to: planning and record-keeping for the child, communication, general interaction with and routine care of the child.

(f) The caregiver(s) shall give individual attention to each child, in addition to the time devoted to diapering and feeding.

(g) Children shall not be left in restraining devices such as swings, car seats, or high chairs (in excess of thirty (30) minutes). Stimulation shall be provided to children in those settings.

(h) Opportunities shall be provided for children to interact with one another.

Current through rules effective April 2014.
(i) Opportunities shall be provided for children to be by themselves to play alone or do homework, if they choose, in a small, quiet area away from other activities.

(j) Children ten (10) years and older shall be encouraged to participate in the planning of their own schedules and activities.

(k) Extended Care. Children shall be given the same opportunities for developmentally appropriate activities during extended care hours as during conventional care hours.

(2) Television, Radio, Videos, and Computers.

(a) Programs, movies, computer games, and music with violent or adult content (including “soap operas”) shall not be permitted in children’s presence.

(b) Programs/movies/computer games shall be developmentally appropriate for the viewers.

(e) Parents shall be informed of movie showings and video/computer games and their ratings.

(d) Videos, movies, and video/computer games must be previewed by staff for content.

(e) If television, video tapes/DVDs, video/computer games, and/or movies are used, they shall be limited to:

1. Two (2) hours per day, or the length of a movie if more than two (2) hours in the case of school-agers.

2. Extended Care. Television viewing by children during night care between 6 p.m. and 6 a.m., shall be limited to one (1) hour.

(f) All programs shall be designed for children’s education and/or enjoyment.

(g) Up to one (1) additional hour per day, but not more than three (3) days per week, can be added to viewing time for computer use.

(h) School-age children may use computers for completion of homework with no time limitations.

(i) Computers, if used, shall be located in view of a caregiver for monitoring purposes.

(j) Computers which allow internet access by the children shall be equipped with monitoring or filtering software, or an analogous software protection, which limits children’s access to inappropriate web sites, e-mail, and instant messages.
(k) Other activity choices shall be available to children during television/movie viewing or computer use.

(3) Outdoor Play and Playground Routines.

(a) An opportunity for outdoor play shall be extended to children of all ages who are in care more than three (3) daylight hours; provided, however, for agencies where outdoor play is prohibitive or dangerous, as determined in the discretion of the Department, unoccupied indoor space providing fifty (50) square feet per child is acceptable.

(b) Children shall be allowed to experience a variety of weather conditions:

1. Children shall be provided an opportunity for outdoor play when the temperature range, after adjustment for wind chill and heat index, is between thirty-two (32) degrees and ninety-five (95) degrees Fahrenheit and not raining;

2. Children shall be properly dressed and the length of time outside adjusted according to the conditions and the age of the children.

(c) Caregivers shall be alert for signs of dehydration, heat stroke, frostbite, etc., dependent upon the season.

(d) Each agency shall develop a set of age appropriate playground rules that uses positive language. Rules shall be posted in each play area.

(4) Reclining Rest Period:

(a) A reclining rest period of at least one (1) hour shall be provided for all preschool children in care for six (6) hours or more. Extended Care: Children shall be allowed reasonable rest time as indicated in the extended night care schedule.

(b) Each child shall be allowed to form his or her own patterns of sleep.

(c) A child shall not be left in a crib or on a cot for an unreasonable length of time.

(5) Behavior Management and Guidance

(a) Attention spans and skills of children shall be considered so that caregivers do not require children to engage in developmentally inappropriate behavior.

(b) Discipline shall be reasonable, appropriate, and in terms the children can understand.
(c) Discipline that is potentially shaming, humiliating, frightening, verbally abusive, or injurious to children shall not be used.

(d) Discipline shall not be related to food, rest, or toileting.

(e) Spanking or any other type of corporal punishment is prohibited. (“Corporal punishment” is the infliction of bodily pain as a penalty for behavior of which the punisher disapproves.)

(f) Caregivers shall not focus solely upon unacceptable behavior.

(g) Praise and encouragement of good behavior shall be used.

(h) Efforts shall be made to help children develop a feeling of self-worth beginning at infancy and continuing throughout the school-age years.

(i) When a child is engaging in unacceptable behavior the caregiver shall, prior to disciplining the child, first distract the child’s attention and substitute a desirable activity.

(j) Time out shall be reasonable and developmentally appropriate.

1. Time out shall take place in an appropriate location within sight of the caregiver.

2. The length of each time out session shall be based on the age of the child and shall not exceed one (1) minute per each year of age of the child; provided, however, that in no event shall any child below the age of thirty-six (36) months be placed in time-out for more than three (3) minutes, and no child between thirty-six (36) months and sixty (60) months of age shall be placed in time-out for longer than five (5) minutes.

(6) Physical Care-Toilet.

(a) Toilet training shall never be started until a child has been in the child care setting long enough to feel comfortable.

(b) Toilet training shall not be started until a child is able to understand, to do what is asked of them, and to communicate their need to use the bathroom.

(c) Children shall not be made to sit on the potty or toilet for more than five (5) minutes.

(d) Children shall be diapered or cleaned immediately in a safe, sanitary manner.

(7) Educational Activities.
(a) Activities shall be based on developmentally appropriate educational practices.

(b) A daily program shall provide opportunities for learning, self-expression, and participation in a variety of creative activities such as art, music, literature, dramatic play, science, and health.

(c) Staff shall plan ahead for developmentally appropriate activities; written lesson plans shall be provided for children of each age group.

(d) Indoor physical activities, requiring children to use both large and small muscles, shall be provided for children of each age group.

(e) For infants/toddlers, a portion of the day shall include floor time for activities that develop physical, social, language and cognitive skills.

(f) Because of the importance of language development and communication skills infants and toddlers shall have language experiences with adults on a daily basis.

(g) Personal Safety Curriculum.

1. For ages three (3) through school-age, a curriculum shall be offered that shall include instruction, at least once a year, in personal safety.


   (i) The personal safety curriculum shall include a Department-recognized component for the prevention of child abuse, including, for children four (4) years of age and older, a child sexual abuse prevention component.

   (ii) The curriculum shall be based upon curriculum guidelines provided by the Department to the child care provider in any suitable format. The child care provider may choose terminology and instructional methods for this curriculum with a goal of providing clear, effective and appropriate instruction to the children in personal safety, including the prevention of all forms of child abuse.

3. Personal Safety Instruction Requirements for School-Age Children.

   (i) For school-age children, the curriculum shall include instruction for reporting physical, sexual or verbal abuse.

   (ii) Children of school-age shall not be required to receive personal safety instruction from the child care agency if they annually receive personal safety instruction as required by this subparagraph (g) in the curriculum of their local public education agency, or, if they receive such instruction in any other

Current through rules effective April 2014.
Educational setting, as approved, in either circumstance, by the Department.

(iii) Documentation of Personal Safety Instruction in Educational Settings.

(I) Written documentation, in a form and manner approved by the Department, verifying that annual personal safety instruction as required by this subparagraph (g) is being provided in a public educational setting to each child enrolled in the child care agency, shall be maintained on file with the Department.

(II) For children who do not attend public schools, the child care provider shall secure and maintain documentation, in a form and manner approved by the Department, verifying that each school-age child enrolled in the child care agency is receiving annual personal safety instruction as required by this subparagraph (g).

4. Beginning October 1, 2008, the personal safety curriculum used by a child care agency shall be made available by the child care agency to parents and legal guardians for review. The child care agency shall use a standard notification form developed by the Department that will be provided to the parents or legal guardians by the child care agency to confirm that the parents/guardians have been notified of the curriculum to be used and of their opportunity to review the personal safety curriculum.

5. The record of each enrolled child shall include a copy of the signed notification form acknowledging that parents/legal guardians have been provided an opportunity to review the agency’s personal safety curriculum, and have been notified of the sexual abuse/personal safety curriculum for their child.

6. If parents/legal guardians have questions regarding the personal safety curriculum, a representative of the child care agency shall meet with the parents/legal guardians to discuss the curriculum.

(8) Extended Care. Agencies providing nighttime care shall meet the following additional requirements:

(a) Calming activities preceding bedtime shall be provided, e.g., listening to a story or soft music. In addition, individual/adult attention shall be provided as needed.

(b) Routine personal hygiene shall be encouraged and supervised. A plan shall be made with parents for brushing teeth, baths, bed dress, etc.

Tenn. Comp. R. & Regs. 1240-04-03-.10
1240-04-03-.10. HEALTH AND SAFETY.

(1) Children’s health records shall be maintained as directed under subchapter 1240-04-03-.05.

(2) Children shall be immunized in accordance with current Department of Health guidelines unless exempted pursuant to 1240-04-03-.05. The agency shall maintain written policies for the disenrollment of children who fail to comply with Department of Health immunization guidelines in a timely manner.

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(3) Children shall be checked upon arrival and observed for signs of communicable disease during the day.

(4) A child’s temperature must be taken using a non-invasive method unless otherwise prescribed by a physician.

(5) Symptomatic children shall be removed from the group until parents are contacted and health issues are resolved.

(6) Universal precautions, as defined by the Department of Health, shall be followed when handling or cleaning bodily fluids.

(7) First Aid.

(a) A standard first aid kit (for example, one approved by the American Red Cross) shall be available to all staff, and all staff shall be familiar with its contents and use.

(b) At least one staff member who has current certification or equivalent in first aid from a certifying organization recognized by the Department shall be on duty at all times. The course shall be a minimum of three (3) hours and shall be taught by a certified first aid instructor. Extended Care: All staff shall have certification or equivalent in first aid from a certifying organization recognized by the Department.

(c) Current and comprehensive first aid information shall be available to all staff who interact with children and the agency shall provide periodic training and updates on basic first aid and the use of the first aid kit.

(8) Emergency Treatment.

(a) Cardiopulmonary Resuscitation (CPR) Requirements.

1. At least one staff member on duty shall hold current certification in Infant/Pediatric Cardiopulmonary Resuscitation (CPR) from the American Red Cross, the American Heart Association, or other certifying organization, as recognized by the Department.

2. Extended Care. All staff shall be certified in Infant/Pediatric Cardiopulmonary Resuscitation (CPR) from a certifying organization recognized by the Department.

(b) The initial CPR course shall be a minimum of four (4) hours and shall be taught by an individual currently certified, as recognized by the Department, to provide CPR instruction.

(c) When school-age children are present, and/or in a school-age only program, at least one staff member shall hold current certification, pursuant to the requirements listed in subparagraphs (a) and (b) above, in Adult CPR. Extended Care: All staff shall be certified pursuant to the requirements listed in subparagraphs

Current through rules effective April 2014.
(9) Preparation for Emergencies.

(a) The agency, in consultation with appropriate local authorities, shall develop a written plan to protect children in the event of disaster such as, but not limited to, fire, tornado, earthquake, chemical spills, floods, etc. and shall inform parents of the plan.

(b) The agency shall implement these emergency procedures through timely practice drills to meet local regulations and local emergency services plans and shall maintain documentation of drills for one year. Extended Care: At least one (1) of these drills shall be conducted during extended care hours.

(c) The following emergency telephone numbers shall be posted next to all telephones and be readily available to any staff member:

1. Fire Department;
2. Police Department/Sheriff;
3. Nearest Hospital Emergency Room;
4. Child Abuse Hotline;
5. Local Emergency Management Agency;
6. Ambulance or Rescue Squad; and
7. Poison Control Center.

(d) If 911 or a similar generic number is operable in the community, it shall be posted in addition to the above numbers.

(e) All home/work contact numbers for parents shall be readily available to all staff.

(10) Contagious Conditions:

(a) Impetigo and diagnosed strep shall be treated appropriately for twenty-four (24) hours prior to readmission of the child to the center.

(b) Children diagnosed with scabies or lice shall have proof of treatment and be free of nits prior to

Current through rules effective April 2014.
(c) The agency may not provide care and/or isolation for a child with a contagious condition unless written instructions are obtained from a licensed physician or certified health care provider.

(d) Parents of every child enrolled shall be notified immediately if one of the following communicable diseases has been introduced into the agency:

1. Hepatitis A;

2. Food borne outbreaks (food poisoning);

3. Salmonella;

4. Shigella;

5. Measles, mumps, and/or rubella;

6. Pertussis;

7. Polio;

8. Haemophilus influenza type B;

9. Menigococcal meningitis; and

10. Any other illness identified by the state or local Department of Health.

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

(11) Notification to Parents of Accidents, Injuries, Illnesses.

(a) Serious injuries, including but not limited to, massive bleeding, broken bones, head injuries, possible internal injury, etc. shall be reported to the parent immediately to arrange for emergency treatment.

(b) Signs of serious illness, including but not limited to, high temperature, disorientation, coughing, vomiting or diarrhea with blood present, severe difficulty breathing, seizure, etc. shall be reported to the parent immediately to arrange for emergency treatment.
(c) Accidents, injuries, and every sign of illnesses shall be reported, or a reasonable attempt made to report, to the parent as soon as possible, but no later than the child’s release to the parent or authorized representative.

(d) In no event shall the agency delay seeking emergency treatment due to a delay in making contact with the parent.

(12) Medications.

(a) All medications, prescribed and non-prescribed, shall be received from the parent by a designated staff person or management level staff person.

(b) An alternate staff person shall be available to administer medication in the event the designated staff person is absent.

(c) The staff person designated in subparagraph (a) above shall document verification of the following:

1. The parent’s written authorization to administer each medication;

2. That the medicines or drugs are in the original prescription container, are not out of date, and are labeled with the child’s name;

3. The specific dosage and times the medication is to be administered to the child; and

4. That the parent has provided the agency with instructions on the methods of administration.

(d) The following documentation of administration shall be maintained in the child’s file and a copy provided to the parent:

1. Times medications administered;

2. Noticeable side effects; and

3. Name of staff person administering medication to child.

(e) The parent shall sign documentation verifying that:

1. The administration information required by subparagraph (c) above was received; and
2. Unused medication was returned to the parent.

(f) Medication shall not be handled by children. Exception: A physician’s authorization for the current school year shall be on file for school-age children who must have self-administered medication.

(g) Medication shall never be administered in bottles or infant feeders unless authorized by a physician.

(h) Accessibility of Medications.

1. All medications, prescription and non-prescription, whether requiring refrigeration or not, shall be stored in a locked compartment or container.

2. If medications requiring refrigeration are kept in a refrigerator used for food storage, the medicine shall be put in a leak-proof locked container.

3. Keys for these compartments/containers shall be inaccessible to children.

4. Exception for Emergency Administration. Medication requiring emergency administration, as directed by the physician, nurse practitioner or physician’s assistant, e.g., “EpiPen”, asthma inhaler, etc., may be kept in an unlocked container that is inaccessible to children.

(i) Unused medications shall be returned to the parent.

(a) Smoking.

1. Smoking is not permitted in the presence of children.

2. Under state law, smoking in child care centers that are not private homes is restricted within a child care facility to areas where children are not permitted access, and parents must be given notice that the facility has a smoking area.

   (i) No smoking signs must be posted conspicuously within the facility as provided by state law.

   (ii) Federal law prohibits smoking in any part of a child care facility that is not a private residence if the facility is constructed, operated, or maintained with Federal funds.

(b) Alcoholic Beverages.

Current through rules effective April 2014.
1. The use of alcoholic beverages is not permitted in child care centers during the hours of operation of the center.

2. Alcoholic beverages shall not be located in the designated child care space when children are present.

(c) Illegal or inappropriate activities on the premises, property, or in a vehicle on the facility property or used for transportation of children enrolled in the child care center, or any activity that otherwise places children at risk are prohibited.

(d) Firearms shall not be on the premises of a child care agency, in any vehicle used to transport children or in the presence of a child. Exception: In a private residence, firearms and other deadly weapons or tools on the premises shall be secured in such a way that they are inaccessible to children.

(e) Kitchen knives and other potentially dangerous utensils or tools shall be secured so that they are inaccessible to children.

(f) Staff’s personal belongings (such as, but not limited to, contents of purses, backpacks, coat pockets, diaper bags, etc.) shall be inaccessible to children at all times.

(4) Diapering.

(a) Children shall be diapered/changed and cleaned immediately when wet or soiled.

(b) For the protection of children and adults, the Centers for Disease Control guidelines for handwashing and diapering procedures shall be followed.

(e) The diapering area and/or toilet training area shall be located near a handwashing lavatory and shall be located in a separate area from the food preparation area.

(d) All diapering surfaces shall be off the floor, nonporous, and shall be sanitized using the following cleaning solutions for general cleaning and sanitizing purposes:

1. For general cleaning and sanitation purposes, a fresh solution of one quarter (1/4) cup chlorine bleach to one gallon of water (or one (1) tablespoon chlorine bleach to (1) quart of water) must be made daily.

2. Substitutions for the bleach solution required in part 1 above, that are approved for the child care setting by the Department of Health are permissible.

3. The solution required in part 1 above is not appropriate for items associated with food preparation or for items that children frequently place in their mouths, and the Health Department does not permit the use of higher concentration than these in food preparation areas. Specific jurisdictions may have even more stringent requirements; therefore, the local health department should be consulted.

Current through rules effective April 2014.
(e) A tightly covered container with plastic liner shall be used for diaper disposal and shall be inaccessible to children. This container shall be emptied by closing the liner and disposing of it in an outside receptacle.

(f) Special Needs Children

1. If older children are enrolled who lack independent toileting abilities, rules regarding diapering of preschool children shall apply.

2. Children shall be changed in a location designated for that purpose and which provides privacy from other children and adults.

3. School-age children may be diapered on the floor on a nonporous, washable diapering surface that adequately protects the floor from contamination.

4. The floor beneath the diapering surface shall be immediately cleaned after each diapering.

5. The diapering area shall be located near a handwashing lavatory. This area shall be in a separate location from the food preparation area.

(15) Naptime Care.

(a) In order to avoid the spread of airborne diseases children shall be positioned on mats in a face to feet alternating pattern.

(b) Spacing of cots, cribs, and mats shall allow sufficient space to walk between them.

(16) Tuberculosis Screening.

(a) Tuberculosis (TB) screening prior to on-going contact with children is required for any individual who:

1. Was born in a country other than the United States, Canada, Western Europe, Australia, New Zealand, and Japan;

2. Has a weakened immune system (Human Immunodeficiency Virus [HIV], cancer, taking chemotherapy drugs, etc.); or

3. Has been recently exposed to tuberculosis.

(b) Any individual who has had a cough for three (3) weeks or longer shall be evaluated by a physician for tuberculosis.
(c) Future screening is not required for individuals who have been treated for TB or latent TB infection unless persistent pulmonary symptoms develop or there is contact with tuberculosis.

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

(17) Staff Health.

(a) Staff health records shall be maintained as directed under subchapter 1240-04-03-.05.

(b) A statement of mental or emotional health shall be obtained from a psychiatrist or clinical psychologist when deemed necessary by the Department.


(a) Duty to Report.

1. Every operator, owner, licensee, director, or staff member of, or substitute staff member or volunteer in a child care agency licensed by the Department of Human Services is individually responsible, and is required by Tennessee Code Annotated, §§ 37-1-403 and 37-1-605, to immediately report any reasonable suspicion of child abuse or neglect to the Department of Children’s Services, local law enforcement or the judge of the juvenile court in the county of the child’s residence.

2. Determining Suspicion of Abuse/Neglect.

   (i) Due to both the immediate risk to children’s safety, as well as to the extreme risk of destroying or losing critical evidence, the agency and/or individual staff shall not delay reporting possible abuse or neglect in an attempt to conduct an investigation to verify the abuse/neglect allegations.

   (ii) In determining a reasonable suspicion for purposes of reporting, the agency shall limit questioning of the child and may make only the most basic inquiries necessary to determine if any reasonable possibility of abuse or neglect exists.

   (iii) The agency does not have to, and shall not attempt to, validate (or “prove”) the allegation prior to making a report as required by this paragraph (18). A final determination of the validity of the report of abuse or neglect shall be made exclusively by the Department of Children’s Services and/or by law enforcement based upon the report by the child care agency’s staff.

3. Each center shall develop procedures, approved by the Department of Human Services in conformity with the Tennessee Rules and Regulations Currentness _1240. Department of Human Services _1240-04. Adult and Family Services Division _Chapter 1240-04-01. Standards for Group Child Care Homes (Refs & Annos)
with DCS policy, for staff to follow to report suspected abuse and neglect.

4. Any statement from a child reasonably indicating abuse/neglect of that child or another child or any evidence of abuse/neglect observed on a child shall be immediately reported by staff to the Department of Children’s Services in a manner specified by that department, to local law enforcement or to the judge of the juvenile court in the county of the child’s residence.

(b) The telephone numbers of the Department of Children’s Services, the local law enforcement or the juvenile judge of the county of the child’s residence for staff to call to report suspected abuse and neglect shall be posted in a conspicuous location by each telephone.

(c) Prohibited Procedures for Reporting Suspected Child Abuse/Neglect/Penalties.

1. The agency shall not develop or implement policy that inhibits, interferes with or otherwise affects the duty of any staff, including substitutes and volunteers, to report suspected abuse or neglect of a child as required by subparagraph (a) above and Tennessee Code Annotated, §§ 37-1-403 and 605, and shall not otherwise directly or indirectly require staff to report to the agency management or seek the approval of agency management prior to any individual staff member reporting the suspected abuse or neglect.

2. A report of suspected child abuse or neglect of a child enrolled in the child care agency by the operator, owner, licensee, director or staff member of, or substitute staff member or volunteer in, a child care agency shall not be made to any other entities or persons, including, but not limited to, hospitals, physicians, or educational institutions as an alternative to or substitute for the reporting requirements to the persons or entities specifically listed in subparagraph (a) above.

3. The operator, owner, licensee, director, or staff member of, or substitute staff member or volunteer in, the child care agency shall not suggest to, advise or direct a parent or caretaker of a child enrolled in the child care agency to make a report of suspected child abuse or neglect regarding that parent’s or caretaker’s own child who is enrolled in the child care agency as a means of fulfilling the duty of the operator, owner, licensee, director, or staff member of, or substitute staff member or volunteer in, the child care agency to report child abuse or neglect as required by Tennessee Code Annotated, §§ 37-1-403 and 37-1-605.

4. Because the statutory requirements of Tennessee Code Annotated, §§ 37-1-403 and 37-1-605 do not authorize the prohibited procedures described in parts 1-3 of this subparagraph (c) to fulfill the statutory duty of any person, and especially the duty of those licensed by the State of Tennessee to care for and protect vulnerable children, to make timely and effective reports of child abuse and neglect to appropriate investigative agencies, and because the prohibited procedures described in parts 1-3 of this subparagraph (c) are completely unreliable procedures to ensure that the appropriate authorities are able to timely and satisfactorily investigate suspected child abuse or neglect, any action that does not comply in all respects with subparagraph (a) above, will not fulfill the statutory duty to report child abuse or neglect and the licensing requirements of this Chapter.

5. Failure to Report Properly Is Grounds for Suspension, Denial or Revocation of the Agency License.

(i) Failure to make the reports required by subparagraph (a) above or the use of the prohibited methods described in parts 1-3 of this subparagraph (c) as an attempt to fulfill the duty to report suspected child abuse or neglect.
abuse or neglect, for children in the care of the child care agency are, by themselves, grounds for suspension, denial or revocation of the agency’s license.

(ii) If the facts establish by a preponderance of the evidence that there has not been strict compliance with the requirements of subparagraph (a) above or that the prohibited procedures described in parts 1-3 of this subparagraph (c) have been utilized as an alternative means of fulfilling the requirements of subparagraph (a) above, these circumstances shall create a rebuttable presumption for the Administrative Law Judge and the Child Care Agency Board of Review that the duty to report child abuse or neglect has not been fulfilled, and this ground for suspension, denial, or revocation of the agency’s license by the Department of Human Services shall be sustained unless such presumption is rebutted by a preponderance of the evidence.

(d) Agency Duties During Investigations of Child Abuse and Neglect; Custodial Authority of Children.

1. Every operator, owner, licensee, director, or staff member of, or substitute staff member or volunteer in, a child care agency licensed by the Department of Human Services shall fully cooperate with all agencies involved in the investigation of child abuse or neglect, and with the Department of Human Services in efforts to provide protection for children enrolled in the child care agency.

2. The agency shall provide access to records of children and staff.

3. The agency shall allow appropriate investigators to interview children and staff.

4. The agency shall not interfere with a child abuse and neglect investigation.

5. The agency shall protect the child by requesting the investigator’s identification.

6. The agency shall maintain confidentiality of the investigation and shall not disclose the investigation or details of the investigation except as required to carry out procedures for the protection of children or as otherwise directed by the Department of Children’s Services, law enforcement or the Department of Human Services.

(e) Upon notification of a pending abuse/neglect investigation of any agency staff member or resident of a home-based center, the agency shall enter into a Safety Plan with the Department regarding the individual’s access to the agency and to children in the care of the agency.

(f) All agency staff, including non-caregiving staff, shall receive training every six (6) months regarding procedures to report child abuse and neglect.

(19) A parent shall be notified before the child leaves the premises except in emergency circumstances, except that an authorized investigator with the Department of Children’s Services or local law enforcement may take a child off the premises of the agency if he/she has obtained custody of the child as follows:

(a) Voluntary placement agreement with the parent;

Current through rules effective April 2014.
(b) Court order;

c) Emergency assumption of custody under T.C.A. §37-1-113 without parental permission;

d) If the child’s parent or legal guardian is present and approves; or

e) In conjunction with investigative procedures under the child abuse laws.

1240-04-03-.11. FOOD.

Green 1240-04-03-.11. FOOD.

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(1) Nutritional Needs.

(a) If the agency provides meals, the agency shall provide developmentally appropriate meals, snacks, and
drinks for each child that are of sufficient proportions and nutritional value to meet each child’s health needs
in accordance with the following minimum requirements:

1. For children in care at least four (4) hours, one (1) snack shall be provided, unless the four (4) hour
period covers a normal meal hour, in which case a meal shall be served; provided, however that, if the
child is fed their meal at home or in school the child shall be served two (2) snacks in lieu of a meal.

2. Children in care five (5) to six (6) hours shall be provided one (1) meal and one (1) or two (2) snacks;
provided, however that, if the child is fed their meal at home or in school the child shall be served two (2)
snacks in lieu of a meal.

3. Children in care seven (7) to ten (10) hours shall be provided one (1) meal and one (1) or two (2)
snacks.

4. Children in care longer than ten (10) hours shall be provided two (2) complete meals and one (1) or two
(2) snacks.

5. A meal shall be offered to children who arrive before 7:00 a.m. and have not had breakfast at home.

6. Extended Care. For extended night care children, meal and snack service will not apply while children
are asleep, but snacks will be offered if the child awakens and indicates hunger.

(b) Appropriate foods shall be encouraged; highly inappropriate foods, e.g. foods high in sugar and/or fat
content, but containing low nutritional value, shall be discouraged.

Current through rules effective April 2014.
(c) Powdered milks shall be used only in a cooked food product.

(d) All special needs diets shall be prepared as prescribed by a physician or by the written instructions of the parent.

(e) In order for parents to be aware of the food their children are receiving the week’s menus shall be planned and posted by the first day of each week and remain posted throughout the week.

1. These menus shall be followed, although reasonable substitutions are permissible, if the substituted food contains the same nutrients.

2. Any change shall be documented in advance of the meal.

(f) Food shall not be forced on or withheld from children.

(g) Food as Behavior Management.

1. Foods served as part of the meal/supplement pattern shall not be used as reward; nor shall food be used or withheld as a form of discipline.

2. Desserts and sweets shall not be used as rewards or a form of discipline.

(h) New foods shall be introduced to infants and toddlers one at a time over a five (5) to seven (7) day period with parent’s approval.

(i) The feeding schedule for infants shall be in accordance with the child’s need rather than according to the hour.

(j) Staff shall support and facilitate a parent’s decision to continue breast feeding.

(k) Parents and caregivers shall work together when weaning an infant to ensure consistency in the weaning process. Weaning shall be delayed until after an infant adjusts to group care.

(1) Children shall not be permitted to carry a bottle with them throughout the day.

2) Meal Service.

(a) Caregivers and children shall wash their hands with soap and water.
(b) High chairs and tables on which food is prepared and served shall be washed with soap and water and sanitized prior to and after snacks and meals.

(c) Floors under tables and high chairs on which food is served shall be swept and/or vacuumed after each meal and cleaned as needed.

(d) Dishes and Utensils.

1. Napkins, individual forks and/or spoons shall be provided for children who feed themselves.

2. Individual dishes as necessary for the type of feeding shall be provided.

3. Routine food service dishes, utensils, and bottles shall be break-resistant.

(e) Due to the extreme risk of choking, solid foods (including cereal) shall not be given in bottles or with infant feeders to children with normal eating abilities unless authorized by a physician. Violation of this rule may result in suspension, revocation or denial of the agency’s ability under its license to provide infant care.

(f) To avoid choking, foods shall be appropriate for the eating and chewing abilities of children. Hotdogs, if served to preschool children, shall be finely chopped or quartered lengthwise because they swell if trapped in a child’s throat.

(g) At mealtine, children shall be seated at tables and chairs of appropriate size, and adults shall sit with them.

(h) Formula and Food Brought from Home:

1. All formulas and food brought from home shall be labeled with the child’s name.

2. Milk shall be placed immediately in the refrigerator.

3. Once milk has been warmed, it shall not be re-warmed or returned to the refrigerator.

4. For optimum digestion, formula is to be served at body temperature.

5. Frozen breast milk shall be dated when expressed.

6. All formulas remaining in bottles after feeding shall be discarded.

(i) Microwaves, Bottle Warmers, and Crock Pots. In order to prevent scald and splash burns.
1. Microwave ovens, bottle warming devices, and crock pots, including cords, shall not be accessible to preschool children.

2. School-age children shall use microwaves only under direct supervision.

3. Children shall never be held while removing a bottle from a crock pot or warming device.

4. The “splash zone” area immediately surrounding microwaves, crock pots and warming devices shall be kept inaccessible to children at all times.

5. All crock pots, bottle warmers and other warming devices shall be maintained at the device’s lowest available temperature setting.

6. Crock pots and bottle warming devices shall be secured in such a manner as to prevent them from tipping over, splashing or spilling.

7. Bottled breast milk, infant bottles, and formula shall not be heated in a microwave oven.

8. To prevent scalding, liquid and solid foods heated in a microwave shall be carefully checked for “hot spots” prior to serving.

(j) Previously opened baby food jars shall not be accepted in the center. If food is fed directly from the jar by the caregiver, the jar shall be used for only one feeding.

(k) Infants shall be held while being fed as long as they are unable to sit in a high chair, an infant seat, or at the table.

(l) To avoid the risk of serious injury or choking, children shall always be restrained in the high chair manufacturer’s restraint device while sitting in a high chair. Children who are too small or are too large to be restrained using the manufacturer’s restraint device shall not be placed in a high chair.

(m) Bottles shall not be propped, and a child shall not be given a bottle while lying flat.

(n) When children are capable of using a high chair, they shall be allowed to do so and to experiment with food, with feeding themselves, and to eat with fingers or a spoon.

(o) Children shall never be left without adult supervision while eating.

(3) Food Storage

Current through rules effective April 2014.
(a) Potentially hazardous foods requiring cold storage shall be maintained at 45 degrees F or below, and accurate thermometers for measurement of the food temperature shall be kept in the refrigerators where such food is stored.

(b) Potentially hazardous food requiring hot storage shall be maintained at an internal temperature of 140 degrees F or above.

(e) Frozen foods shall be maintained at a temperature of 0 degrees F or below.

(d) Thermometers shall be placed in all freezers and all other cold storage equipment.

(e) All dry food supplies shall be stored in closed containers. These foods shall be stored in a manner to prevent possible contamination and to allow for proper cleaning of the storage area. Containers of food shall be stored a minimum of six inches above the floor or on movable dollies.

(f) All food shall be protected from contamination during storage, preparation, transportation, and serving.

(g) No poisonous or toxic materials except those required for sanitization purposes may be used or stored in a food-service area of a facility.

(4) Food Sanitation.

(a) Home canned food and raw milk are prohibited.

(b) Raw fruits and vegetables shall be washed before use.

(e) All eating and drinking utensils shall be thoroughly cleaned and sanitized after each use with the exception of single-service utensils which shall be discarded following use.

(d) Single-service articles shall be made from nontoxic materials and shall be stored, handled, and dispensed in a sanitary manner.

(e) All utensils and food-contact surfaces or equipment used in the preparation, transportation, service, display, or storage of potentially hazardous food shall be thoroughly cleaned and sanitized prior to and after each use.

(f) Milk and food shall not be placed on the table longer than fifteen (15) minutes prior to the beginning of the meal to avoid contamination and spoilage.
(1) Inspections and Compliance with Fire, Health and Safety Standards.

(a) All facilities shall annually pass an inspection verifying compliance with all applicable state and local fire and environmental requirements.

(b) The following facilities, in addition to meeting the requirements set forth in subparagraph (a) above, shall pass inspection by the State Fire Marshall’s Division of the Tennessee Department of Commerce and Insurance and the Food and General Sanitation Division of the Tennessee Department of Health:

1. Facilities that are currently unlicensed;
2. Facilities that have not previously been approved by the State Fire Marshall;
3. Facilities that have relocated; and/or
4. Existing facilities with renovations, new construction, additions to, and/or changes in occupancy.

(2) Neither a temporary nor an annual license shall be issued unless all of the following requirements are met:

(a) The physical facility meets all requirements set forth in paragraph (1) above;

(b) The physical facilities (indoor and outdoor) present no apparent hazards; and

(c) The physical facilities are otherwise deemed appropriate by the Department for the safe care of children.

(3) Requests for inspections shall be made by the Department, but it is the responsibility of the applicant to obtain verification of the inspections and the approvals.

(4) Building Plans. Plans for new construction must be drawn by a registered architect or engineer and submitted to the State Fire Marshall and to the local health department when required by such departments and in accordance with the respective departments’ procedures.

(5) Continuing Compliance. Physical facilities shall maintain compliance with all applicable codes as set forth in paragraph (1) above, throughout the licensing year, and shall additionally comply with any updated standards issued by the Department of Health and the State Fire Marshal.

(6) The agency shall not be located in a building used for purposes which would be hazardous to the children or would prohibit outdoor play unless the agency is an inner city agency which has requested and been granted an exception from the Department pursuant to the requirements for “Outdoor Play” found in paragraph 1240-04-
(7) Telephones and Other Communication Devices.

(a) Due to the potential unreliability of cellular phones and the potential failure of cordless phones during power outages and other emergencies at least one (1) working, land-line telephone shall be present in the agency.

(b) If answering machines/voice mail must be used, they shall be monitored at thirty (30) minute intervals (except when staff and children are off premises) so that emergency messages can be received.

(c) Parents shall be informed that answering machines/voice mail are used.

(8) Licensed Capacity of Physical Space.

(a) The maximum number of children who may be present inside a physical space (e.g., the agency’s “licensed capacity”) shall be determined in accordance with the minimum square footages set forth in this paragraph; provided, however, the Department may, in its discretion as determined reasonably necessary to maintain the health and safety of the children in care, restrict the agency’s licensed capacity below the maximum which is set forth in these rules.

(b) A minimum of thirty (30) square feet of usable indoor play space must be provided for each child.

(c) Each naproom must contain a minimum of thirty (30) square feet of floor space per child.

(d) Teen parenting vocational classes shall have a separate space for the group, with a minimum of thirty-five (35) square feet of usable play space per child that is apart from the classroom space for students.

(e) Occupational/vocational child care classes shall have a separate space for the group, with a minimum of thirty-five (35) square feet per child of usable space, apart from the classroom space for students. The designated separate space may be located in the same room and divided by movable barriers less than four feet (4’) in height.

(f) For the purposes of calculating square footage requirements, any area used as restrooms, halls, kitchen, or office space, and any space used by cribs or large pieces of furniture, shall not be considered “usable indoor play space” and shall not be counted toward the agency’s licensed capacity.

(g) Rooms with sufficient floor space, as defined by the requirements set forth in these rules, may be divided and used for more than one (1) group; provided, however, that each area is adequately equipped and arranged and that each group shall have the security of a stable classroom space.

(h) Adequate Plumbing Facilities. The agency shall have the minimum number of toilets and handwashing sinks as established by the Department in accordance with the:

Current through rules effective April 2014.
1. Requirements of any applicable local ordinances and regulations;

2. Proximity of the plumbing to the classroom(s); and

3. Ages of the children served.

(9) Outdoor Play Area.

(a) Outdoor play areas shall contain a minimum of fifty (50) square feet of usable play space for each child using the area at one time.

(b) Agencies Initially Licensed After January 1, 2002. The outdoor play area must be enclosed by a fence or barricade at least four feet (4') in height; provided, however, that the agency may request that the Department, in its discretion, waive such requirement upon a clear showing that the lack of such fence or barricade poses no apparent or potential risk to children.

(c) The areas where children play or are cared for shall be properly maintained:

1. A written playground maintenance plan shall be prepared by the agency to address routine, remedial, and preventive maintenance and to designate who is responsible for each maintenance need.

2. A pre-play/care inspection of the outdoor play area shall be completed by the agency before children play outdoors.

3. The play/care areas shall be free of hazardous items or materials unless adequately protected by storage, inaccessibility, proper supervision, or other safety procedures.

4. These play/care areas shall otherwise present no conditions which may be hazardous to children.

5. All such play/care areas shall be free of all animal wastes.

(10) Equipment Hazards.

(a) Cords on window blinds shall be inaccessible to children.

(b) Electrical cords on equipment shall be inaccessible to children.

(c) All indoor and outdoor areas shall be kept safe by the absence of, or the immediate removal or repair of, any object, fixture, equipment, or substance in the facility or grounds that could potentially cause injury to a
(11) General Sanitation and Safety of Building and Grounds

(a) Water Supply.

1. The drinking water supply serving child care facilities shall be from a source approved by the health authority having jurisdiction.

2. Drinking water from individual single service cups or an approved drinking fountain shall be provided in all occupied rooms.

(b) Sewage and Waste Disposal.

1. Connection to a public sewage disposal system shall be made where possible. The use of a private sewage disposal system shall have the approval of the local health department and it shall be operating satisfactorily.

2. All garbage shall be removed from the building daily.

3. All garbage storage receptacles shall be outside and kept closed with tight-fitting lids.

4. The area surrounding the garbage containers shall be kept clean.

(c) Building, Grounds and Pools.

1. The building shall be kept clean and maintained in good repair, without unsafe cracks, leaks or unsatisfactory plumbing.

2. All outside doors and windows shall be screened and operable unless air-conditioning is operational.

3. Adequate natural and/or artificial lighting shall be provided throughout the facility.

4. All rooms used by children shall be maintained at a temperature of between 68 degrees to 78 degrees F by means of heating, cooling or ventilation sources approved for use.

5. Stoves, hot radiators, steam and hot water pipes, fans, or other shall be adequately protected by screens, guards, insulation, or suitable measures that will protect children from coming in contact with them.

6. Broken glass, trash and debris shall be kept removed from the building and grounds.

Current through rules effective April 2014.
7. Building and grounds shall be kept free of unprotected ponds, wells, cisterns, refrigerator or similar hazards.

8. Swimming pools shall be fenced to prevent entry of children without adult supervision.

9. Swimming pools and/or wading pools shall not be used without prior approval by the Health Department.

10. Grounds, tire swings and containers shall have adequate drainage to prevent standing water that can breed mosquitoes and other insects.

11. If animals or birds are kept in classrooms as pets, they shall be caged away from the food storage and preparation or service area, and cages kept clean.

12. Turtles shall not be kept as pets due to the risk of salmonella.

Tenn. Comp. R. & Regs. 1240-04-03-.13

1240-04-03-.13. TRANSPORTATION.

(1) Management Responsibility.

(a) Prior to offering child care transportation services of any type, directly or by contract, all new and existing child care agencies must provide written notice to the Department.

(b) Unless specifically noted otherwise within the context of the rule, the agency is responsible for compliance with all transportation provisions of this subchapter, regardless of whether the agency provides transportation directly, through a third party by contract or otherwise.

(c) The child care agency’s management shall be fully responsible for the transportation of children between the child’s home and the agency, to or from school, and/or for off site activities, on any vehicle which it operates, for which it contracts or which is otherwise under its direction or control.

(d) Prior to providing transportation services of any type all existing and new child care agencies must provide a written statement to the Department:

1. Stating the type(s) of transportation that will be offered, e.g., from the child’s home to the child care agency, from the child care agency to the child’s school, etc.;

2. Listing and describing the vehicles that will be used for the transportation of children; for example,
“2002 small white school bus”;

3. Describing any contracts, agreements or arrangements with any third (3rd) parties for the provision of transportation services, with copies of such contracts or agreements or arrangements available upon the Department’s request;

4. Describing the agency’s plan for maintaining compliance with the transportation time limits set forth in this Chapter;

5. Describing the agency’s policy, procedures and staff training plans for maintaining compliance with the responsibilities for loading, unloading, and tracking each child as set forth in this Chapter;

6. Describing the agency’s management plan for ensuring all transportation staff properly perform their duties in accordance with the licensing rules and agency policies and procedures;

7. Describing the agency’s policy, procedures and staff training plans for attaining and maintaining compliance with all applicable child safety restraint requirements as set forth in these rules and state law; and

8. Describing the provider’s policy, procedures and staff training plans for the emergency evacuation of the vehicle.

(e) Vehicles used to transport children and which are owned or operated by, contracted for or which are otherwise under the direction or control of the child care agency, shall carry automobile liability insurance coverage for each vehicle used for that purpose in the minimum amounts required by rule 1240-04-03-.05(4) of this Chapter.

(2) Supervision of Children During Transportation.

(a) An adult must be in the vehicle whenever a child is in the vehicle.

(b) An adult must be seated behind the steering wheel if the motor is running and children are being loaded and/or are on board.

(c) Adult Monitor Requirements.

1. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more children ages six (6) weeks through five (5) years of age, who are not in kindergarten.

2. An adult monitor, in addition to the driver, is required on the vehicle for all routes exceeding thirty (30) minutes for children ages six (6) weeks through five (5) years of age, who are not in kindergarten, regardless of the total number of children being transported.
3. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more non-ambulatory children (permanently or temporarily non-ambulatory) of any age.

4. An adult monitor shall not be seated in the front passenger seat, but shall be seated in the vehicle in a position which will allow:

   (i) Each child to be seen with a quick glance;

   (ii) Each child to be heard at all times;

   (iii) Each child’s activities to be observed; and

   (iv) The monitor to respond immediately should there be an emergency.

(3) Responsibility for Loading, Unloading and Tracking Each Child.

(a) Passenger Log:

1. A passenger log provided by, or in a format approved by the Department shall be used to track each child during transportation.

2. The first and last name of each child received for transport shall be recorded on the passenger log. A sibling group shall not be listed as a single group entry, for example, “Smith children”.

3. Either the driver of the vehicle or the monitor shall be designated by management as the person responsible for completing the log.

(b) Loading Procedures:

1. As each child is loaded onto the vehicle the time the child was placed on the vehicle shall be recorded onto the passenger log by the person designated to keep the log.

2. If the child was loaded from home, the parent or other authorized person will additionally sign the log indicating that the child was placed on the vehicle.

(c) Unloading Procedures:

1. The individual designated by the agency as responsible for the log shall update it immediately upon the child being released from the vehicle. The designated staff member shall update the log by:

Current through rules effective April 2014.
(i) Recording the time the child was released; and

(ii) Initialing next to the time of release.

2. When the child is released to a parent or other authorized person, that person must sign the log indicating that the child was released to them.

(d) Confirming that Every Child Is Off of the Vehicle.

1. Driver Responsibilities. Immediately upon unloading the last child and to ensure that all children have been unloaded the driver shall:

   (i) Physically walk through the vehicle;

   (ii) Inspect all seat surfaces, under all seats and in all compartments or recesses in the vehicle’s interior;

   (iii) Sign the log, with the driver’s full name, indicating the children are all unloaded; and

   (iv) Give the passenger log to the monitor, or to the additional reviewer if no monitor is required.

2. Monitor Responsibilities. If a monitor was also on the vehicle the monitor shall:

   (i) Physically walk through the vehicle;

   (ii) Inspect all seat surfaces, under all seats and in all compartments or recesses in the vehicle’s interior;

   (iii) Sign the log with the monitor’s full name indicating the children are all unloaded; and

   (iv) If the monitor has been designated by the agency as responsible for keeping the log, the monitor shall give the log to the additional reviewer as set forth below.

3. Additional Reviewer Responsibilities:

   (i) Agency management shall designate an additional person, who did not ride on the vehicle, to conduct an inspection once the vehicle has been unloaded.

   (ii) The additional reviewer shall:

Current through rules effective April 2014.
(I) Physically walk through the vehicle;

(II) Inspect all seat surfaces, under all seats and in all compartments or recesses in the vehicle’s interior;

(III) Reconcile the passenger log with the agency’s attendance roll to verify that each child is off the vehicle and present in his assigned classroom. This transfer of responsibility of each child shall be verified by the reviewer’s full signature on the passenger log; and

(IV) Immediately notify the director or other individual designated in charge of any discrepancies between the passenger log and the attendance roll.

(e) Loading/Unloading Children at School.

1. When children are transported to school, they shall be released in accordance with the following procedures:

   (i) Children shall be unloaded only at the location designated by the school;

   (ii) Children shall be unloaded from the agency’s vehicle only at the time the school is open to receive them;

   (iii) The driver/monitor shall watch the children who are unloaded from the vehicle walk through the entrance door designated by the school for the children; and

   (iv) Any additional procedures established by the school.

2. After all the children have been unloaded at school, the vehicle shall return to the center for the review procedures outlined above.

3. When children are picked up from school they shall be loaded on the vehicle at the location designated by the school using all applicable procedures for logging of children’s presence on the vehicle, release and inspection contained in this subchapter 1240-04-03-.13.

4. The child care agency shall develop written policy approved by the Department that:

   (i) Contains procedures for the driver to follow in the event that a child scheduled to be picked up does not report to the vehicle; and

   (ii) Insures that children will have adult supervision should the driver need to try to locate a missing child.
(f) Unloading Children at the End of the Day. When children are unloaded at the end of the day and the vehicle does not return to the center for the additional review that confirms every child is off the vehicle, the center shall develop procedures, approved by the Department, to:

1. Verify that all children are off the vehicle; and

2. Verify that each child was released to a responsible person authorized by the parent.

(4) Vehicle Monitoring Devices.

(a) All vehicles used by or on behalf of the agency for the transportation of children that are designed to transport six (6) or more passengers must be equipped with a child safety monitoring device approved by the Department which prompts staff to inspect the vehicle for children before an alarm sounds; provided, however, that such device shall not be required:

1. On vehicles in which all the children being transported are five (5) years of age and in kindergarten, or older, unless any of the children are developmentally or physically disabled or non-ambulatory; or

2. On vehicles used exclusively for occasional field trips.

(b) Only devices approved by the Department are authorized for use on such a vehicle.

(5) Transportation Staff Qualifications.

(a) All drivers and monitors (employed by the agency or provided through contract or otherwise), shall comply with all applicable transportation staff qualifications set forth in this subchapter.

(b) Documentation of all transportation staff qualifications shall be kept on file at the agency and shall be immediately available to the Department upon request.

(c) Drivers license. At a minimum, the person driving a vehicle used to transport children in a child care agency shall possess a current, valid Tennessee driver license with an “F” (“For Hire”) endorsement or an equivalent endorsement recognized by the Department of Safety as meeting the minimum qualifications for transportation of children enrolled in child care agency in the applicable type of vehicle in which the children are being transported.

(d) Department of Safety Driver Requirements.

1. Persons transporting children for a child care agency shall have available for review by the Department of Human Services documentation of any training and testing required and provided by the Department of Safety.
2. All persons subject to this paragraph (5) shall obtain a certification document from the Department of Safety to signify that they have passed additional written or skills tests required for persons who may, in the course of their duties, drive a vehicle that transports children enrolled in a child care agency.

3. All persons subject to this paragraph (5) shall be required to obtain annual training that is utilized for school bus drivers offered by the Department of Safety or such other equivalent training as the Department of Safety may determine is appropriate.

(e) Health Examinations for Drivers: The agency or the contractor providing transportation services shall maintain documentation, updated annually and signed by the examining licensed physician, licensed psychologist, licensed clinician, Nurse Practitioner or Physician’s Assistant, verifying that the individual who drives a vehicle transporting the children for the child care agency is physically, mentally and emotionally capable of safely and appropriately providing transportation for children.

(f) Drug Screenings for Drivers.

1. Individuals shall pass a drug screening test in accordance with procedures established by the Department:

   (i) No later than ten (10) days prior to the individual being employed full or part-time as a driver (contract or otherwise) who provides transportation services for compensation on behalf of the agency; or

   (ii) No later than ten (10) days prior to an existing employee (contract or otherwise) assuming driving duties, at any time.

2. The child care agency management shall immediately review the results of the drug screen upon receipt.

3. Upon receipt of a positive drug screen result for the individual being considered for driving duties or upon receipt of notification by a contractor or other person or entity providing transportation for compensation regarding such individual, the child care agency shall immediately:

   (i) Notify the Department and prohibit the individual from any duties involving children enrolled in the child care agency; and

   (ii) Enter into a safety plan approved by the Department that excludes the individual from driving for the child care agency until the individual passes a drug screen test and is otherwise approved, in writing, by the Department, to perform driving duties involving the transportation of children for the child care agency.

4. The agency shall be responsible for verifying that a contractor, or other person or entity providing transportation for compensation to the child care agency has not employed or assigned any driving duties for the agency to any individual who fails to pass a drug screen as required by this subparagraph.
(g) Prior to assuming their duties, all individuals responsible, or who may in the course of their duties become responsible at any time for transporting children (including drivers and monitors), shall complete Department-recognized pre-service training in:

1. The proper daily safety inspection of the vehicle as required by these rules;

2. The proper use of child safety restraints required by these rules and state law;

3. The proper loading, unloading, and tracking of children as required by these rules;

4. The proper use of a blood-borne pathogen kit, first aid kit, and other required vehicle emergency equipment as required by these rules;

5. The proper verification procedures for the evacuation of the vehicle based upon the type of vehicle and the ages of the children served; and

6. The developmentally appropriate practices applicable to the behavior management of children during transportation.

(h) Following the completion of pre-service transportation training, all persons responsible at any time for the transportation of children (including drivers and monitors), shall complete Department-recognized transportation training on transportation rules every six (6) months.

(i) Emergency Aid Training. All persons responsible (including all drivers and monitors), or who in the course of their duties may become responsible at any time, for the transportation of children shall hold current certification in:

1. Infant/Pediatric Cardiopulmonary Resuscitation (CPR) from the American Red Cross, the American Heart Association, or other certifying organization as recognized by the Department; and

2. A first aid course sponsored or approved by the American Red Cross, or other first aid course, as recognized by the Department.

(j) The training requirements set forth in this paragraph do not apply to individuals who provide transportation services exclusively for occasional field trips.

(6) Vehicle Requirements and Inspections.

(a) The requirements of this paragraph include vehicles used at anytime by the agency or by a contractor for the agency as the regular child care vehicle(s) and/or as back-up vehicles.

(b) The following equipment shall be maintained in the vehicle and stored in a manner which is not readily
accessable to children:

1. Fire extinguisher;

2. Emergency reflective triangles;

3. First aid kit;

4. Blood-borne pathogenic clean-up kit; and

5. Seat-belt cutter or similar device manufactured and designed to immediately release the vehicle’s child restraint system(s) in an emergency.

(c) The driver or monitor assigned to the vehicle shall be familiar with the location and use of all equipment required under subparagraph (b) above.

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

(e) The carrying, possession or storage of firearms or other weapons, alcohol or illegal substances in child care vehicles is prohibited.

(f) The child care agency shall maintain documentation that the following daily inspections have been performed and any necessary repairs completed or other appropriate action taken before transporting children:

1. A visual inspection of the vehicle’s tires for wear and adequate pressure;

2. A visual inspection for working headlights and taillights (brake lights and back-up lights), signals, mirrors, wiper blades and dash gauges;

3. An inspection for properly functioning child and driver safety restraints;

4. An inspection for properly functioning doors and windows;

5. An inspection for the presence of safety equipment required by these rules or any other provisions of law or regulations, and repair or replacement as necessary based upon visual evidence of the need to do so;

6. A determination that the vehicle has adequate fuel; and
7. An inspection for, and cleaning of, debris from the vehicle’s interior.

(g) The child care agency shall maintain documentation that the following maintenance is performed:

1. Receive regular inspections and maintenance by a certified mechanic in accordance with the maintenance schedule recommended by the vehicle manufacturer, and

2. Have the following vehicle equipment certified as inspected at least every four thousand (4,000) miles if not covered by, and/or otherwise serviced in accordance with the manufacturer’s maintenance schedule:

   (i) Brakes;

   (ii) Steering;

   (iii) Oil levels, coolant, brake, windshield-washer and transmission fluids;

   (iv) Hoses and belts; and

   (v) Tires.

(h) Department of Safety Inspections. All child care vehicles that are designed by the vehicle manufacturer to carry ten (10) or more passengers must be inspected in accordance with the schedule established by the Department of Safety. Any maintenance or repair to the vehicles disclosed by the inspections shall be the sole responsibility of the child care agency.

(i) No vehicle which does not pass the inspections required in this paragraph (6) shall be used by the child care agency or by its contractors, or others subject to the agency’s direction and control, to provide transportation services until necessary repairs, as determined by the Department, have been made.

(7) Passenger Safety Restraints.

(a) The provisions of this paragraph (7) apply to all transportation, including field trip transportation, provided by or on behalf of the agency.

(b) All child care vehicles must have a rear seat, i.e., passenger seating located behind the driver position that has been factory-installed or professionally retrofitted, and must have factory-installed or professionally retrofitted passenger restraint anchorages and passenger restraints as required by the provisions of this paragraph (7) for the age and size of the driver/passengers being transported and the type of vehicle being used; provided, however, that passenger restraint devices which are designed by the manufacturer to be attached to the seat by the end-user, e.g., add-on restraint systems such as infant carriers and harness systems, are not required to be factory-installed.
(c) All restraints must be used in accordance with the restraint manufacturer’s instructions and must be secured to the vehicle in accordance with the vehicle manufacturer’s and the restraint manufacturer's instructions.

(d) Passenger air bags shall remain turned off unless an adult or a child fifteen (15) years of age or older is riding in the front passenger seat of the vehicle.

(e) No child or adult shall ride on the floor of a vehicle.

(f) No child shall be placed with another child in the same restraint device.

(g) Children under four (4) years of age shall always be placed in a rear seat of the vehicle. For the purposes of this paragraph (7), a “rear seat” in any vehicle which is categorized as a “school bus” shall mean any passenger seat that has been factory-installed or professionally retrofitted and that is located behind the bus driver or behind the bus entrance which is directly to the right of the bus driver.

(h) Effective September 1, 2007, all vehicles with a Federal Motor Vehicle Safety Standards (“FMVSS”) classification of “Small School Bus” or “Multi-function School Activity Bus” and a Gross Vehicle Weight Rating (GVWR) of ten thousand pounds (10,000 lbs.) or less must, in accordance with federal law, be manufactured with a “Type 2” restraint device, i.e., a lap and shoulder belt assembly) at each designated seating position, except at side-facing positions at which a “Type 1” restraint device, i.e., a lap belt, must be used.


Child passenger restraint equipment and usage requirements contained in this paragraph (7) applicable to any vehicles manufactured before September 1, 2007, that are subject to the class/weight requirements of this subparagraph (h) shall continue to apply after such date, except as amended by law or regulation.


In addition to all other child passenger restraint equipment and usage requirements of this paragraph (7) applicable to any vehicles that are subject to the class/weight requirements of this subparagraph (h), children ages nine (9) years or older shall be restrained in a “Type 2” restraint device, i.e., a lap and shoulder belt, at each designated seating position in such vehicles manufactured on or after September 1, 2007, except that, at side-facing positions, a “Type 1” restraint device, i.e., a lap belt, must be used.

(i) Child Restraint Requirements under Applicable State or Federal Law.

In addition to the requirements set forth in subparagraphs (a) through (h) above, all children shall be restrained in accordance with the requirements for child passenger restraint systems set forth in Tennessee Code Annotated, §§ 55-9-601--55-9-603 and any applicable federal law or regulation.

(j) Adult Restraint Requirements.

Current through rules effective April 2014.
1. Adult Restraint Requirements for Vehicles with a Gross Vehicle Weight Rating (GVWR) of 8,500 lbs. or less:

All adults operating or riding in any vehicle subject to the weight classification in this part 1 shall be restrained in a “Type 2” restraint, i.e., lap and shoulder belt assembly); provided, however, that if the seating position is not equipped with a Type 2 restraint, the adult must be restrained with a “Type 1” restraint device i.e., a lap belt.

2. Effective September 1, 2007 all vehicles with a Federal Motor Vehicle Safety Standards (“FMVSS”) classification of “Small School Bus” or “Multi-function School Activity Bus” and a Gross Vehicle Weight Rating (GVWR) of ten thousand pounds (10,000 lbs.) or less must, in accordance with federal law, be manufactured with a “Type 2” restraint device, i.e., a lap and shoulder belt assembly) at each designated seating position, except at side-facing positions at which a “Type 1” restraint device, i.e., a lap belt, must be used.


Adult driver/passenger restraint equipment and usage requirements contained in this paragraph (7) applicable to any vehicles manufactured before September 1, 2007, that are subject to the class/weight requirements of this part 2 shall continue to apply after such date, except as amended by law or regulation.

(ii) Adult Restraint Requirements for Vehicles Manufactured on or After September 1, 2007.

In addition to all other adult driver/passenger restraint equipment and usage requirements of this paragraph (7) applicable to any vehicles that are subject to the class/weight requirements of this part 2, adults operating or riding in such vehicles shall be restrained in a “Type 2” restraint device, i.e., a lap and shoulder belt at each designated seating position in such vehicles manufactured on or after September 1, 2007, except that, at side-facing positions, a “Type 1” restraint device, i.e., a lap belt, must be used.

(8) Capacity Limitations and Cargo Requirements.

(a) The total number of adults and children in vehicles used for the transportation of children enrolled in the agency shall never exceed the manufacturer’s rated passenger capacity.

(b) All cargo, luggage or equipment of any type shall be adequately secured at all times in such manner as to protect the passengers in case of accident or emergency maneuvers.

(9) Requirements for Child Care Transportation Vehicles Effective January 1, 2007.

(a) All vehicles used by a child care agency that are designed to carry ten (10) or more passengers must conform to all Federal Motor Vehicle Safety Standards (FMVSS) governing either “large” school buses or
“small” school buses, as applicable, in accordance with the provisions of the FMVSS described in 49 Code of Federal Regulations Part 571, or as such law may be amended.

(b) The requirements of this paragraph do not apply to vehicles used exclusively for the provision of occasional field trips.

(10) Vehicle Signage Requirements.

(a) The requirements of this paragraph are applicable to all vehicles used for the transportation of children enrolled in the agency, including vehicles operated by a contractor of the agency or vehicles operated by any other provider of services under the direction or control of the child care agency, unless specifically exempted by these rules.

(b) On each side of the vehicle the following information shall be displayed in a block font that is not less than one and one-half inches (1½″) in height:

1. The full name of the child care agency and emergency contact number for the agency in any font or color, including the agency’s current logo and lettering scheme, which is clearly readable at a distance of fifty feet (50′) on a stationary vehicle in daylight conditions; and

2. The words “Child Care Transportation Complaints” followed by the Department’s toll-free Child Care Complaint phone number in black text on a clearly contrasting background that is clearly readable at a distance of fifty feet (50′) on a stationary vehicle in daylight conditions.

(c) On the rear of the vehicle the following information shall be displayed:

1. The full name of the child care agency and the words “Child Care Transportation Complaints” followed by the Department’s toll-free Child Care Complaint phone number in black letters in a block font not less than one inch (1″) in height on a clearly contrasting background that is clearly readable at a distance of forty feet (40′) on a stationary vehicle in daylight conditions.

2. Exception: Display of the Complaint number is not required on passenger automobiles (excluding minivans) used for transportation by the child care agency with a manufacturer’s rated seating capacity of six (6) or fewer passengers.

(d) The vehicle signage required by these rules shall be applied to the vehicle in one of the following formats:

1. Painted directly on the vehicle in accordance with the paint manufacturer’s instructions using paint recommended by the paint manufacturer as appropriate for use on a vehicle; or

2. A weather-resistant sign securely fastened to the vehicle. The term “securely fastened” includes magnetic signs and signs bolted to the vehicle. The term does not include adhesives such as tape or glue unless recommended by the adhesive manufacturer as being appropriate for outdoor use on a vehicle.

Current through rules effective April 2014.
(e) Special Requirements for Centralized Transportation.

1. Central transportation operations or any other entity that may own or operate more than one child care agency and which may provide centralized transportation services for its child care agencies; and/or

2. Contractors, or other transportation service providers under the direction or control of the child care agency, which may provide centralized transportation services to more than one child care agency may substitute for the name and phone number of the child care agency the full name and emergency contact number of the central operator, contractor or other transportation service providers under the direction or control of the child care agency. If the name on the vehicle does not clearly designate the agency or entity as one providing child care transportation, words such as “Child Care Transportation Vehicle” or “Child Care Transportation Services”, or similar language approved by the Department, must be displayed on the vehicle in a manner that demonstrates, as determined by the Department, that the vehicle is providing child care transportation.

(f) Exceptions to Vehicle Identification Requirements.

1. Vehicles used exclusively for the provision of occasional field trips; and

2. Vehicles used exclusively for the limited provision of emergency transportation, e.g., as a result of the mechanical breakdown of the regular child care vehicle.

3. The Department may, in its discretion, waive the requirements of this paragraph for any child care agencies owned, operated, or under the direction or control of a public agency.

4. The Department may, in its discretion, waive the requirements of this paragraph if circumstances clearly warrant such an exemption.

(11) Limits on Time Children Are Transported/Transportation Waivers.

(a) Children shall not spend more than forty-five (45) minutes traveling one way to or from the agency’s facility or to or from school; provided, however, this provision is not applicable to field trips.

(b) If extended transportation beyond the limits in subparagraph (a) is necessary in special circumstances, or as may be required by geographic factors, an individualized plan for each child shall be established and signed by the parent and the child care agency and approved by the Department prior to providing such transportation.
(1) Extended care services may be offered by an agency as an additional component to conventional care services, or the agency may exclusively provide extended care services.

(2) In order to facilitate the availability of child care services during extended care hours while ensuring the health, safety and welfare of children during such hours, any agency which is licensed to provide child care services during extended care hours shall comply with the following “Extended Care” rules in addition to the rules otherwise contained in this Chapter:

(a) Definitions contained in 1240-04-03-.02(22).

(b) Supervision as required in 1240-04-03-.06(3)(d) - adult:child ratios.

(c) Program 1240-04-03-.09.

1. Schedule and Routines, paragraph (1)(k);

2. Television, Videos and Computers, paragraph (2)(e);

3. Reclining Rest Period, paragraph (4)(a); and

4. Extended Care, paragraph (8).

(d) Health and Safety, 1240-04-03-.10.

1. First Aid, paragraph (7)(b);

2. Emergency Treatment, paragraph (8)(a)(2) and (8)(c); and

3. Preparation for Emergencies, paragraph (9)(b).

(e) Food, 1240-04-03-.11, paragraph (1)(a)(6).

(1) When children with disabilities are enrolled, all reasonable and appropriate efforts shall be made to provide each child an equal opportunity to participate in the same program activities as their peers.

Current through rules effective April 2014.
(2) Parents or other appropriate individual identified by the parent shall provide information and, as appropriate, training for caregivers regarding special needs/techniques/emergency measures/etc., as utilized in the child’s home to ensure the child’s safety and well-being.

(3) Adaptations to the environment shall be directed toward normalizing the lifestyle of the child by helping the child to become independent and develop self-help skills.

(4) Behavior management techniques or program activities which would tend to demean or isolate the child are prohibited.

(5) The agency shall inform parents of any specialized services available from the agency, and if the agency is aware of any specialized services available through third parties, shall additionally inform the parent of such services.

(6) Efforts to provide specialized services (e.g., speech/hearing therapy, physical therapy, psychological evaluation, or services for the mentally retarded) either directly or by referral, shall be conducted only with written permission by the parent and documented in the child’s record. Any information exchange regarding these services that is shared with or received from third parties shall also be documented.

(7) Emergency Plans.

(a) The agency shall have written individualized emergency plans for each disabled child who requires more assistance in emergencies than other children of the same age or in the same group.

(b) The emergency plan shall be approved by the Department.

(c) The agency shall maintain documentation that the Emergency Plan is practiced monthly.

(8) Each non-verbal child’s daily activities, including, as applicable to the individual child, the time and amount of feeding, elimination, times of diaper changes, sleep patterns, and developmental progress, shall be recorded and shared with the parents daily.

(9) Diapering of School-age Children with special needs shall be completed as required by Rule 1240-04-03-.10.

(10) Physical Restraint. In order to avoid an extremely high risk of physical injury or death for children subject to this subchapter 1240-04-03-.15, the child care agency shall not use physical restraint, as defined by rule 1240-04-03-.02(38), unless approved to do so by the Department and in accordance with all of the requirements of this paragraph.

(a) Least Restrictive Alternative. The agency shall attempt to alleviate the danger to the child by exhausting all methods which are least restrictive to the child’s mobility prior to applying a safe-hold restraint on the
child, including but not limited to:

1. Calming the child through talking, distraction toward favored activities, and other developmentally appropriate behavior management techniques;

2. Removing any implements which the child is using or could use to self-inflict injury;

3. Physically removing the child to a secured or otherwise less dangerous area; and

4. Physically blocking the child from access to walls, equipment and other materials which the child is using or could use to self-inflict injury.

(b) Prior to using physical restraint that has been approved by the Department, the agency shall have developed a clear written policy on the acceptable use of physical restraints that is approved by the Department and which includes, at a minimum, the following:

1. Criteria, including the medical authorization required by these rules, for the identification of specific individual children for whom the use of physical restraints is not prohibited;

2. Criteria for the identification and authorization of specific individual staff to administer the physical restraint;

3. Provisions for the initial and ongoing training of staff authorized to administer physical restraint;

4. Provisions for alternative available methods of behavior management and procedures requiring their use prior to administering physical restraint;

5. Procedures for the immediate notification of the parent after physical restraint is administered; and

6. Policies and procedures for insuring compliance with all other requirements contained within this paragraph (10).

(c) The agency shall maintain in the child’s health record required by 1240-04-03-.05 a written statement, updated annually and signed by a physician or licensed clinician, which states that the child does not have any medical or physical condition that would contraindicate the use of physical restraint. The agency is prohibited from administering physical restraint on any child whose health record does not contain this current statement.

(d) The agency shall maintain written documentation, signed by the parent, that the possible use of physical restraint has been discussed and explained in detail with the parent at the time their child is enrolled in the agency.

Current through rules effective April 2014.
(e) Physical restraint shall only be administered by staff members who have completed training approved by the Department on the proper administration of physical restraint.

1. This training shall be updated annually.

2. The agency shall maintain documentation of the training in the staff record required by 1240-04-03-.05.

(f) In order to assure that the child can be checked for signs of distress and to otherwise monitor the appropriate application of the physical restraint, the agency is prohibited from administering physical restraint unless a second (2nd) trained staff member is available on the premises to assist.

1. The second (2nd) trained staff member shall be called immediately upon the determination being made that physical restraint will be necessary.

2. Untrained staff are prohibited from assisting in any manner whatsoever in the administration of the physical restraint.

(g) Administration of the physical restraint must cease immediately upon the child no longer posing an imminent threat to herself/himself, regardless of whether the child is continuing to exhibit inappropriate or unacceptable behavior.

(h) Emergency 911 or local emergency services must be contacted for assistance if a child remains uncontrollable and continues to pose a threat to himself/herself after five (5) continuous minutes of restraint have been applied.

(i) After an incident using physical restraint the agency shall create a written incident report within one (1) business day that is available to the parent and to the Department and which documents:

1. The date and time the potentially dangerous behavior began;

2. A description of the means in which the behavior escalated;

3. All alternative methods which were used to manage the behavior;

4. The exact methods, including a physical description, used to administer the restraint;

5. The child’s physical appearance and behavior following administration of the restraint; and

6. The identification of all staff who interacted with the child in any manner whatsoever during this time period and the nature of their interaction.

Tenn. Comp. R. & Regs. 1240-04-03-.16

Current through rules effective April 2014.
1240-04-03-.16. SICK CHILD CARE.

(1) Scope of Services. Agencies that provide sick child care as either an exclusive service or as a component of an existing child care service must, in addition to the rules contained in this Chapter, comply with the rules contained in this subchapter 1240-04-03-.16. Any conflict between the provisions of subchapter 1240-04-03-.16 and subchapters 1240-04-03-.01 through 1240-04-03-.15, inclusive, shall be resolved by reference to the requirements contained in this subchapter 1240-04-03-.16.

(2) Statement of Agency Services, Policies and Procedures.

(a) An applicant for a license to operate a child care agency providing sick child care services shall submit a written statement to the Department, in the form and manner directed by the Department, which provides the following information:

1. If sick child care services will be operated in the same facility as non-sick child care, the child care agency’s provisions for maintaining the physical and operational separation of the sick child care and non-sick child care services;

2. A description of the types of sick care child care services that are to be offered to children and, as applicable, to parents/family;

3. Ages of children to be served;

4. Types of illnesses/symptoms that will be served and types that will be excluded;

5. Admission requirements and enrollment procedures not included in the agency’s Statement of Purpose as required by 1240-04-03-.05;

6. Hours of operation;

7. Plans for feeding children as appropriate to each child’s age and illness;

8. Procedures for cleaning, sanitizing and infection control;

9. Staff training plan;

10. Methods of daily care including record keeping, reports;

11. Policy, procedures, and staff training plan for emergency medical care; and
12. Procedures for staff communication with parent and health care providers.

(b) After being licensed, if a licensee wishes to change the scope or type of service offered to children and families, an amended statement shall be filed with the Department for approval prior to implementation.

(3) Medical Protocols.

(a) The sick care agency management shall develop a medical protocol for specific illness groups in accordance with best practices and the requirements of these rules, and otherwise review and update agency policies in accordance with such best practices. Medical protocol and policies shall be developed in consultation with a licensed family, internal medicine or pediatric physician, or a licensed nurse practitioner/clinician with specialization in family or pediatric medicine.

(b) The responsible physician or nurse must review and provide an updated, signed, approval of such protocols at least annually, and at any time that the agency changes its scope of services. In addition, the physician or nurse must otherwise be available on an ongoing basis for medical consultation.

(4) Admission and Enrollment Requirements.

(a) Children must be at least six (6) weeks of age and no more than twelve (12) years of age for admission to the sick child care agency.

(b) Children between the ages of six (6) weeks and six (6) months with a fever of 101 to 102 degrees Fahrenheit (F) shall not be admitted until a written statement is provided from a licensed physician or nurse practitioner/clinician which states that it is acceptable for the infant to attend the sick child care agency.

(c) Children with any of the following symptoms shall not be accepted for care:

1. Temperature greater than 103 degrees Fahrenheit (F) and unresponsive to medication;

2. Neck pain or stiffness;

3. Exhibiting confusion;

4. Unequal pupils;

5. Dehydration;

6. Undiagnosed non-clear eye discharge;

Current through rules effective April 2014.
7. Untreated TB;

8. Excessive, persistent crying;

9. Head trauma with vomiting;

10. Severe or persistent pain;

11. Contagious stages of pertussis, measles, mumps, rubella, diphtheria, chicken pox, mumps, hepatitis B, unless such child is isolated from other children in a contagious room with its own exterior entrance and ventilation system; provided, however, that children with chicken pox and mumps shall not be cared for simultaneously in the same contagious room;

12. Untreated lice, scabies, pinworm, ringworm unless the child can be isolated from other children;

13. Rapid or labored breathing;

14. Undiagnosed rash;

15. Persistent vomiting and/or severe diarrhea; and

16. Other conditions as determined by the nurse or medical consultant.

(d) All children shall be evaluated by the Registered Nurse prior to admission and upon arrival each day.

(5) Children’s Records.

(a) The records required by this paragraph shall be maintained in an organized manner on-site at the center and made available to the Department upon request.

(b) A care plan shall be developed and updated daily for each child. The care plan shall be completed with the assistance of the child’s parent and shall be verified by the parent’s signature and date on the plan.

(c) A chart shall be maintained for each sick child in care.

(d) The following records must be obtained prior to enrolling the child and must additionally be updated annually, or as changes occur:

1. A current information form which includes the child’s name, date of birth, name of parents, child’s and parents’ home addresses, parents’ business addresses, home and work phone numbers, work hours, social
history, and the name and address (home and business or school) of a responsible person to contact in an emergency if parent cannot be located promptly. This information shall be updated annually, or as changes occur;

2. Name, address, and telephone number of a physician to call in case of an emergency;

3. Written consent of parent regarding emergency medical care;

4. A child release plan stating to whom the child shall be released and procedures for allowing the refusal to release children to anyone whose behavior may place the children at immediate risk;

5. Daily attendance records for each child to include time in and time out;

6. Child’s care plan;

7. Physical assessment;

8. History of illness;

9. Admission form;

10. Medication permission form;

11. Immunization record; and

12. Daily health record, including activities, vital signs, intake, output, and administration of medication.

(6) Staff:

(a) A Registered Nurse with at least one (1) year of pediatric experience shall be present at all times that sick children are in care.

(b) In agencies that exclusively provide sick child care, the director shall not be required to meet the provisions set forth in 1240-04-03-.07(4) if:

1. The director holds a BSN; and

2. At least one (1) full-time caregiver has a minimum of four (4) years of experience in early childhood and/or education.

Current through rules effective April 2014.
(c) At least fifty percent (50%) of caregivers shall have at least one (1) year experience in early childhood care and/or education.

(d) All staff must have current pediatric CPR and First Aid certification.

(e) Within the first two (2) weeks of employment all staff shall receive training in the following areas:

1. A general overview of the agency’s medical protocols;

2. General infection control procedures, including handwashing, handling of contaminated items/universal precautions, use of sanitizers, food handling, and washing and disinfecting toys;

3. Care of children with common mild childhood illnesses;

4. Recognition and documentation of illness signs and symptoms;

5. Proper temperature monitoring methods;

6. Nutrition for ill children;

7. Communication with parents of ill children;

8. When and how to call for medical assistance;

9. Notification to the local public health department of communicable diseases;

10. Emergency procedures;

11. The child abuse reporting requirements set forth in subchapter 1240-04-03-.10(18) of these rules;

12. Developmentally appropriate activities for children who are ill; and

13. Staff members who are responsible, or who may in the course of their duties become responsible, for the care of infants shall additionally complete training on the SIDS requirements set forth in subchapter 1240-04-03-.06(4) of these rules.

(f) Each director and caregiver shall have at least six (6) clock hours of continuing education annually which is recognized by the Department, three (3) hours of which shall relate to the care of ill children and the prevention and control of communicable disease.

Current through rules effective April 2014.
(g) After the first year of employment:

1. All staff shall annually receive a general refresher overview of the agency’s medical protocols.

2. Any staff member who cares for infants or may in the course of their duties become responsible for the care of infants shall additionally annually complete refresher training on the SIDS requirements set forth in section 1240-04-03-.06(4) of these rules.

7) Grouping of Adults and Children.

(a) The adult:child ratios and maximum group sizes contained in the following charts shall be maintained at all times.

**Chart 1: Children three (3) months through twenty-three (23) months**

<table>
<thead>
<tr>
<th>Ratio</th>
<th>Maximum Group Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>1:3</td>
<td>9</td>
</tr>
</tbody>
</table>

**Chart 2: Children twenty-four (24) months to twelve (12) years**

<table>
<thead>
<tr>
<th>Ratio</th>
<th>Maximum Group Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>1:4</td>
<td>12</td>
</tr>
</tbody>
</table>

(b) In a multi-age grouping the adult:child ratio and maximum group size shall be determined based upon the requirement for the youngest aged child in the group. Exception: Children under sixteen (16) months may not be grouped with children age three (3) years and above.

Current through rules effective April 2014.
(c) Children shall additionally be grouped based upon the type of illness:

1. Children with respiratory illnesses, gastrointestinal illnesses and non-infectious illnesses shall be cared for in a separate room from each other; and

2. Children shall otherwise be separated in accordance with the agency’s medical protocols.

(d) Children who begin their day in a sick child care center shall remain there throughout the day and shall not be permitted to return to any other part of the child care center or to any other child care center.

(e) Staff may care for well children on the same day that they care for sick children only if all of the following conditions are met:

1. Prior to exiting the sick child center and entering the well child center the staff shall follow handwashing and all other sanitation requirements in compliance with these rules and the agency’s medical protocols; and

2. Prior to exiting the well child center and entering the sick child center the staff shall follow handwashing and all other sanitation requirements in compliance with these rules and the agency’s medical protocols.

(f) Staff caring for sick children must not prepare food for well children or enter the kitchen used to prepare food for well children.

(8) Equipment.

(a) Furnishings, objects, and equipment must be maintained in good repair, and cleaned and sanitized daily and as needed.

(b) Separate rest equipment shall be available to each child in attendance.

(9) Program.

(a) The licensee providing sick child care pursuant to this subchapter shall develop, maintain, and implement a written plan to ensure the provision of a variety of indoor activities designed to meet the needs of mildly ill children. Such activities shall include, but are not limited to:

1. Quiet and active play;

2. Rest and relaxation;

Current through rules effective April 2014.
3. Eating:

4. Toileting;

5. Individual attention; and

6. Children being comforted by care providers.

(b) Outdoor play is prohibited.

(c) Transportation provided by the agency is prohibited.

(d) Children shall be allowed to rest/nap as desired. Children shall have access at all times to rest/nap areas without distraction or disturbance from other activities.

(e) Drinking water and other fluids consistent with the child’s condition shall be available at all times.

(f) All medications shall be kept locked and the key shall be available only to personnel authorized to administer medication; provided, however, that medications requiring emergency administration, including, but not limited to, asthma inhalers and EpiPens, may be kept in an unlocked location which is inaccessible to children.

(10) Infection Control

(a) Only disposable diapers shall be used for children using diapers.

(b) Diapering practices outlined in subchapter 1240-04-03-.10 shall be followed.

(c) Drinking fountains are prohibited.

(d) If meals and snacks are served, disposable cups, plates, utensils, and napkins shall be used.

(e) Only liquid soap from a dispenser is allowed.

(f) Carpet is prohibited.

(g) Walls and floors in rooms where sick care is provided and all linens, furnishings objects, and equipment used by or with sick children must be cleaned and disinfected a minimum of daily and more often as needed.
(h) Toys handled by a child shall be cleaned with soap and water, then sanitized before handling by another child.

(i) All handled toys shall be sanitized at the end of each day.

(j) Non-washable toys shall not be provided. If such toys are brought from home (for example, a stuffed animal which would require machine washing for proper sanitation) they must be limited to personal use articles that are not shared between children.

(11) Physical Facilities

(a) No furnishings, toys, or materials shall be shared.

(b) The physical space designated for sick child care shall not be used by children or staff from any other component of the center when sick children are in care; provided, however, unless otherwise restricted pursuant to rule 1240-04-03-.16(11)(m) below, staff and children may enter and exit the sick care facility through the non-sick care facility.

(c) Rooms shall be separated by a floor to ceiling wall or separate structure.

(d) There shall be no shared space, furnishings, fixtures, toys, supplies, or equipment if the facility serves both sick and well children.

(e) The use of potty chairs is prohibited.

(f) There shall be a minimum of fifty (50) sq. feet of usable play space per child, not including cribs, large pieces of furniture, restrooms, halls, kitchen, or office space, with a minimum of three (3) feet between cots/beds.

(g) Rest rooms, sinks for toileting/diapering and food preparation areas used for sick care must be separate from those used for well children.

(h) Rest rooms shall have a minimum of one (1) toilet per ten (10) children.

(i) A washer and a dryer shall be provided on site or the licensee shall contract with a laundry service to wash smocks, linens, shoulder cloths, scrubs and other non-disposable clothing and linens.

(j) Rooms shall be designed to allow separate areas for resting and sleeping.

(k) Telephones shall be located for ready access by staff in every child care area or an intercom system shall

Current through rules effective April 2014.
be provided to communicate with staff.

(l) A program providing only sick child care shall not be required to have outdoor play space or equipment.

(m) Contagious Room.

1. No child who requires separation in a contagious room may be enrolled unless authorized by the agency’s medical protocols and a contagious room is provided for the care of a child in that condition.

2. The contagious room must be located in a separate room with its own entrance from the outside, and must additionally contain a separate toilet and handwashing facilities, separate toys and equipment, and a separate ventilation/air system.

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Tenn. Comp. R. & Regs. 1240-04-04-.01
1240-04-04-.01. INTRODUCTION.

Family Child Care Home Regulations: page 199-260

(1) Purpose Of Licensing. The primary purpose of licensing is the protection of children. Minimum requirements seek to maintain adequate health, safety, and supervision of children while in a group care setting. Develop mental (comprehensive) child care provides appropriate educational experience, health services, and social services to children and their families.

(2) Types Of Agencies. Child care services may be offered by family day care homes, group day care homes, day care or child development centers, nursery schools, day nurseries, and kindergartens - as well as schools or agencies providing before and after school care. Regardless of name, purpose, or auspices, all are subject to licensure unless exempt by law. (See specific definitions below.)

(3) General Standards And Requirements.

(a) Issuance of a license is based on achievement in meeting and maintaining compliance with minimum standards or requirements, set forth in these rules. The license applies only to the agency, organization, or person(s) to which or to whom it is issued and only to the building and premises approved for the operation of the child welfare agency. In addition to state licensing requirements, it is the responsibility of the applicant/licensee to comply with all applicable local ordinances, including zoning ordinances and business tax licenses or other locally required permits.

(b) A day care home must comply with all requirements in these rules to receive an annual license. In addition to fire safety and environmental sanitation approval, the applicant must demonstrate good faith intent to comply with these rules before a conditional license may be issued. Failure to meet such requirements, or to demonstrate good intention in meeting them in the case of a conditional license, shall constitute grounds for denial of a license or for revocation of a license already issued.

(c) Appendices to these rules which contain fire safety, health, environmental sanitation regulations, summaries of applicable laws, and other information are incorporated herein by reference.

Current through rules effective April 2014.
(4) Legal Basis For Licensing. TCA §71-3-501 et seq. provide for defining, inspection, licensing, and regulation of child welfare agencies including day care homes. (See Appendix A for summary of applicable laws.) The Tennessee Department of Human Services has responsibility for licensing all such agencies offering child care to groups of children.

(5) Definitions. For the purpose of this Chapter, the following definitions are applicable:

(a) Annual License. An annual permit issued by the Department to a child welfare agency or to a child care system central operator, authorizing the licensee to provide child care in accordance with provisions of the license, the law, and requirements (rules) of the Department. Issuance of a license is not an endorsement of child care methods or of an agency’s operational philosophy. A license is not transferable from one location to another or from one licensee/operator to another.

(b) Approved Day Care Home. An approved day care home is a day care home which is related through contractual or employment arrangements to a central operator. The approved day care home must meet the same requirements and must have been evaluated by the central operator in the same manner as an individual licensed day care home.

(c) Caregiver(s). Any person who provides all or part of the care of a group of children, including the primary caregiver.

(d) Central Operator. The individual(s), or the corporation, partnership, cooperative, or other private or public entity of any kind, who or which, through their authorized representative(s), in addition to other activities, if any, owns, administers or operates a child care system. The central operator shall have ultimate responsibility for the administration/operation of any or all day care homes and child care centers in the system and shall, together with the primary caregiver, sign the application for a license. The central operator shall be the licensee.

(e) Child. A person under 17 years of age.

(f) Child Care. The wide variety of arrangements made by parents (or guardians) for the care outside of their home of children under 17 years of age, for less than 24-hour periods, without transfer of custody.

(g) Child Care System. The existence of any day care homes approved or licensed and used by a licensed and incorporated day care agency or a licensed child-placing agency in its work; or the existence of two (2) or more facilities used for day care purposes which facilities are under ownership, administration or control of any individual(s), corporation, partnership, cooperative, or other public or private entity of any kind.

(h) Commissioner. The executive head of the Department of Human Services, appointed by the Governor.

(i) Conditional License. A permit issued by the Department to a new child welfare agency or to a new child care system central operator, permitting and authorizing the licensee to begin child care operations. It is valid for ninety (90) days and is issued upon application by the operator only if the staff and facility do not present any apparent hazards to the children that may be in care and only if the facility has received fire safety and
environmental sanitation approval. If, at the end of the 90-day period, evidence is provided by the applicant/licensee that such child welfare agency is suitable and properly managed and that the agency is in compliance with these rules, the Department will issue an annual license to the child welfare agency.

(j) Day Care. Synonymous with definition of child care, above.

(k) Department (DHS). The Tennessee Department of Human Services and its representatives.

(l) Family Day Care Home. A home (an occupied residence) operated by a person for the purpose of receiving therein a minimum of five and a maximum of seven children under 17 years of age, who are not related (see definition below) to such person and whose parent(s) or guardian(s) are not residents in the same house, for less than 24-hours per day for care, without transfer of legal custody.

(m) Group Day Care Home. Any facility operated by a person, social agency, corporation or institution, or any other group which receives a minimum of eight and a maximum of 12 children (and up to three additional school-age children who will only be present before and after school, on school holidays, on school snowdays, and during school summer vacation) for less than 24-hours per day for care outside their own homes, without transfer of legal custody. Before a group day care home opens, fire safety and environmental inspectors must approve the facility.

(n) High School Diploma. As used in the context of caregivers’ qualifications, refers to a document recognizing graduation from an accredited institution, public or private, based on the issuing state’s required number of academic credits, including passing a GED test. As used in this Chapter, a certificate or statement of attendance or similar document or correspondence or video course do not qualify as or for a high school diploma.

(o) Infant. A child who is six weeks through 15 months of age.

(p) Law. The licensing law as contained in TCA §§71-3-501 through 71-3-530, and related statutes or other referenced statutes or regulations.

(q) Licensee. The person(s), agency(ies), or central operator to whom a license is issued and who must assume ultimate responsibility for a day care home or homes. In a single-site home, the licensee is the primary caregiver. In a child care system of approved homes, the central operator is the licensee. (The term as used herein also refers to an agency.)

(r) Parent. A biological or adoptive parent, guardian, or custodian who has primary responsibility for a child.

(s) Preschool Child. A person who is 31 months through five years of age. The term includes infants and toddlers.

(t) Primary Caregiver. The adult who is responsible for direct care and supervision of children in a day care home and for the daily operation of a home. In a family day care home which is not operated by a central operator, the primary caregiver is the licensee. Duties may include hiring, training, and supervision of other caregivers.

Current through rules effective April 2014.
(u) Related. As used in this Chapter, any children under age nine of the following relationships by marriage, blood, or adoption: children, step-children, grandchildren, siblings, step-siblings, nieces, and nephews of the primary caregiver.

(v) School-age Child. A person who is five years of age and in kindergarten or older (refers to kindergarten through grade six).

(w) Staff. Full and part-time caregivers, employees, and volunteers if any.

(x) Substitute. Paid or unpaid persons who are replacement for regular staff. The names, addresses, telephone numbers and dates of service shall be recorded for all substitutes in the staff personnel records of the home. Substitutes providing services for thirty-six (36) hours or more in a calendar year are required to have a criminal background check pursuant to 1240-04-04-.03(1)(a)6 and shall meet the same requirements for regular staff for physical examinations as required by 1240-04-04-.06(3); provided, however, for purposes of 1240-04-04-.03(1)(a)6, persons serving temporarily as caregivers in field service placements as part of an educational course of study or other curriculum requirement shall not be considered as substitutes for purposes of this rule.

(y) Toddler. A child who is 16 months through 30 months of age.

(z) Volunteer. A person who provides services for a child care agency without payment and who is used to supplement regular staff or substitutes. The volunteer shall not be used to meet classroom adult:child ratios. The names, addresses, telephone numbers and dates of service for all volunteers shall be recorded in the staff personnel records of the home.

(6) Procedures For Getting A License.

(a) The Department offers one prelicensure consultation session. When an individual or group is giving consideration to opening a child care service/business, the local county office of the Tennessee Department of Human Services should be contacted. The individual or group will be given the name of a licensing representative who will serve as their consultant.

(b) The Department will offer prelicensure training to prospective providers of day care. Interested persons or groups should contact a licensing representative to determine the date of the next meeting in their area.

(c) The licensing representative will inform the interested individuals or entity of the appropriate time to apply for a license. The family day care home application fee is $5.

(d) Upon satisfaction of the following minimum requirements, a conditional license may be issued:

1. Primary caregiver’s qualifications meet the requirements (see Chapter 1240-04-04-.03);
2. Three satisfactory references for the primary caregiver are verified; and

3. Physical facilities receive fire safety and environmental approval.

4. If the staff and facility do not present any apparent hazards to the children in care.

(e) Receipt of an application begins the evaluation process which is completed with the issuance or denial of an annual license. This process includes:

1. At least one unannounced visit to the day care home;

2. Observation of caregivers’ interaction with children;

3. Review of agency records;

4. Request for written and oral information related to licensure requirements; and

5. Use of an evaluation checklist, itemizing requirements and noting compliance or noncompliance, a copy of which is left with the applicant.

(f) Upon issuance of an annual license, the licensee is expected to maintain compliance with requirements throughout the year.

(g) Near the end of a licensing term, the licensee will be notified by mail of a scheduled reevaluation for a new license. Application for renewal must be made prior to the expiration of the existing license. The reevaluation process is similar to the initial evaluation, but agencies receiving two consecutive annual licenses are rewarded with a shorter, less involved reevaluation and/or fewer reevaluations. A home accredited by the National Association for Family Day Care (NAFDC) may be reevaluated every three years. (See “Appendix A” for further information regarding the licensing process.)


(8) Grace Period. Because the amount of in-service training required has been increased, new agencies and new primary caregivers will be granted a reasonable grace period if needed to obtain the required hours of training.

(9) Investigations Of Child Abuse And Neglect; Custodial Authority Of Children.

(a) A child care provider is required by law to cooperate with the Department and other investigators by reporting any suspected child abuse and neglect to the Department. The child care provider must further cooperate by providing access to the records of children and staff and by allowing investigators to interview children and staff.

Current through rules effective April 2014.
(b) A child care provider should protect the child by requesting the investigator’s identification and by knowing who is entitled to custody of the child. An investigator may take a child off of the premises of the agency if he/she has obtained custody of the child through voluntary placement agreement with the parent, through court order or through emergency assumption of custody under TCA §37-1-113 without parental permission or if the child’s parent or legal guardian is present and approves, or in conjunction with investigative procedures under the child abuse laws.

(c) Child care providers do not have a right to be present during interviews with staff or children or to receive information or results of the interviews or investigations concerning child abuse or neglect unless directly related to efforts to enforce the child abuse or licensing laws.

Tenn. Comp. R. & Regs. 1240-04-.04-.02

1240-04-.04-.02. OWNERSHIP AND ADMINISTRATION.

(1) Ownership/Sponsorship.

(a) The licensee of a family day care home shall be the primary caregiver.

(b) A family day care home shall be the residence of the primary caregiver.

(c) The primary caregiver in a family day care home shall assume responsibility for daily operation of the home and shall meet specified qualifications prior to licensure. (See Chapter 1240-04-.03.)

(d) The central operator of a child care system shall have ultimate responsibility for the operations of any day care homes in the system. The central operator and the primary caregiver shall sign an application for a license for each home sponsored (unless sponsoring agency is classified public or unless homes are to be approved).

(e) The name, address, and phone number of an applicant, central operator, and all primary caregivers shall be made known to the Department of Human Services and to parents of children enrolled in the home(s) and shall become public record.

(f) The applicant/licensee shall notify DHS before changing location of a family day care home.

(g) Day care agencies sharing common land shall be located in separate facilities and shall not share equipment or facilities with the exception of outdoor equipment and play area, which shall be used by children from one agency at a given time.

(2) Policies.
(a) A new primary caregiver shall complete in the presence of the Licensing Counselor the “Checklist of Services” or write out a Statement of Purpose.

(b) A family child care home shall have written policies concerning

1. Services offered;

2. Provision for children’s individual needs;

3. The home’s admission policies and enrollment procedures;

4. Fees charged (if applicable) and plan for payment;

5. Handling of children’s personal belongings; and

6. If the agency provides transportation for children in the agency’s care, the written statement required by 1240-04-04-.07(1)(a) describing transportation plans, procedures and equipment utilized in the transportation process and parental permission for trips away from facility.

(c) A policy statement signed by both the primary caregiver and the parent shall be given to the parent, and a signed copy or other documentation that parent received a copy shall be kept on file.

(3) Enrollment Of Children And Parent Involvement.

(a) Children shall be at least six weeks of age before entering day care.

(b) Prior to admission of children, the parent shall submit a completed information (application) form and current health record. [See 4(c) below and Chapter 1240-04-.06.]

(c) A copy of “Summary of Licensing Requirements” (furnished by the Department) shall be given to the parent(s) of each child enrolled.

(d) During normal hours of operation, parents shall be permitted access to their children and ready access to all licensed areas of the home and premises shall be granted to Department representatives and Inspection authorities (i.e., Fire Safety, Sanitation, and Health).

(e) Parents must be informed in advance of the child’s removal from the premises except in cases of emergencies or pursuant to investigative procedures conducted pursuant to the child abuse laws.

(4) Records.

Current through rules effective April 2014.
The following records shall be kept and shall be available to the Department:

(a) An annual operating budget (actual or projected), which includes a statement of income and expenditures. Adequate financing of the day care operation shall be maintained.

(b) Staff records including:

1. Recommendations from three nonrelated references on each applicant and caregiver. The central operator’s/primary caregiver’s reference information shall be given to the licensing counselor;

2. Training received during the year for each caregiver;

3. Reserved;

4. Adult health records.

(c) Children’s health records.

(d) Daily attendance records on children; on staff if more than one caregiver.

(e) A record on each child which includes the following information:

1. Name, date of birth, name of parent(s), home address, business address and telephone, work hours, child’s background information, transportation plan, and the names of persons allowed to pick the child up.

2. The following information shall be kept where it can be found quickly in an emergency: the name, address, and telephone number of the person parents wish to be called if they cannot be reached. The name, address, and telephone number of a doctor to call in an emergency, written permission of parent authorizing emergency medical care.

3. A written plan of how the primary caregiver intends to communicate daily with parents of every child below 31 months of age.

(f) Children’s records shall be kept for one year following the child’s leaving the agency.

(5) Right To Privacy/Confidentiality. The licensee and caregivers shall not disclose or knowingly permit the use of by other persons any information concerning a child or family except as required by law or regulation.

(6) Posting Of License. During the hours of operation, an up-to-date license to operate a family day care home
(7) Liability and Medical Payment Insurance Coverage.

(a) General liability, automobile liability and medical payment insurance coverage shall be maintained on the vehicles owned, operated or leased by the child care agency and on the operations of the child care agency’s facilities.

(b) Automobile liability coverage shall be maintained in a minimum amount of Three Hundred Thousand Dollars ($300,000) combined single limit of liability. The requirement of this subparagraph only applies to child care programs that transport children.

(c) General liability coverage on the operations of the child care agency facilities shall be maintained in a minimum amount of Three Hundred Thousand Dollars ($300,000) per occurrence and Three Hundred Thousand Dollars ($300,000) general aggregate coverage, or Three Hundred Thousand Dollars ($300,000) per occurrence.

(d) Medical payment coverage as the primary coverage, shall be maintained in the minimum amount of Five Thousand Dollars ($5,000) for injuries to children being transported in vehicles owned, operated or leased by the child care agency under subparagraph (b), and in the minimum amount of Five Thousand Dollars ($5,000) for injuries to children resulting from the operation of the child care agency under subparagraph (c).

(e) The requirements of this paragraph shall not apply to an agency that is under the direct management of a self-insured administrative department of the state, a county or a municipality or any combination of those three (3) or that has, or whose parent entity has, a self-insurance program that provides, as determined by the Department, the coverages and the liability limits required by these rules.

(f) Documentation that the necessary insurance is in effect, or that the administrative department or other entity is self-insured, shall be maintained in the records of the child care agency and shall be available for review by the Department’s licensing staff.

Current through rules effective April 2014.
(I) The Department, in its sole discretion, may require any individual, who drives or may drive at any time any vehicle transporting children on behalf of the agency or its contractors, to undergo a drug screening test when, in the Department’s sole determination, there is reasonable cause to believe that such individual may have an impairment or possible impairment that potentially poses a risk of harm to children in the care of the agency caused by the use, or possession and potential use, of any drug. For purposes of this part, the term “drug” shall include alcohol.

(II) An individual directed to undergo such examinations or screenings may refuse to do so, but will not be permitted to drive a vehicle transporting children in the agency or have any further contact with children in the care of the child care agency until evidence is provided that is satisfactory, in the Department’s discretion, to demonstrate that the individual does not represent a risk of harm to the children in the agency’s care.

(ii) Safety Plans.

(I) The Department may require, in its sole discretion, the child care agency to enter into a safety plan approved by the Department that prohibits or limits such individual’s contact with children in the care of the child care agency pending the outcome of such testing.

(II) The Department may otherwise require, in its sole discretion, that the child care agency enter into a long-term or permanent safety plan that prohibits or limits the driving duties by an individual described in part 1 for, or contact by such individual with, children in the care of the agency.

(III) Failure to adhere to the safety plan shall be grounds for action by the Department against the child care agency’s license as permitted by T.C.A. § 71-3-508(c).

(IV) The child care agency, or any individual whose employment status is directly and adversely impacted by a safety plan or by refusal to undergo an examination as directed by the Department may, at any time during the existence of the plan or during the pendency of the directive for an examination, make written request to the Director of Licensing for an intradepartmental review of the safety plan. Such review shall be conducted by the Director or the Director’s designee within ten (10) business days of receipt of the written request.

(V) Any individual or child care agency that has received an adverse decision from the intradepartmental review set forth in subpart (IV) above, may appeal such safety plan to the Department by filing a written request for an administrative hearing before the Department’s Administrative Procedures Division within ten (10) business days of the Director’s decision. The hearing shall be held by the Division within twenty (20) business days of the receipt of the request for an administrative hearing.

(VI) Any safety plan that exceeds ninety (90) days when proposed or that continues for more than ninety (90) days may be appealed by the child care agency to the Child Care Agency Board of Review.

2. A person who has a physical, mental, or emotional condition which is in any way harmful to children shall not be present with the children.

Current through rules effective April 2014.
3. To be counted in the caregiver to child ratio, caregivers shall be at least 16 years of age and able to read and write, and be supervised by an adult.

4. Caregivers shall be of suitable character to work with young children.

5. Reserved.

6. Criminal history and abuse registry background checks; appeals; exemptions.

   (i) Each person:

   (I) Applying to work with children as a paid employee, a director, or manager of a child care agency;

   (II) Applying to work as a new substitute in a child care agency;

   (III) Who applies for a license for, or who otherwise seeks to operate (an “operator”) a child care agency as defined in TCA §§ 71-3-501 et seq. and who has significant contact with children in the course of the role of operator. For purposes of this subparagraph, an “operator” shall be an individual who is an owner or administrator of a child care agency or a child care system; or

   (IV) Fifteen (15) years of age or older who resides in a child care agency or who moves into a child care agency following initial licensure shall:

   I. Complete a criminal history disclosure form as approved by the Department;

   II. Supply a fingerprint sample in a manner prescribed by the Tennessee Bureau of Investigation in accordance with procedures established by the Department, and shall submit to a fingerprint based criminal history check to be conducted by the Department and the Tennessee Bureau of Investigation in accordance with procedures established by the Department;

   III. Submit to a review of their status on the Department of Health’s vulnerable persons registry under Title 68, Chapter 11, Part 10 of the Tennessee Code Annotated.

   IV. Agree to release all records relating to his or her criminal history to the child care agency and to the Department so that the criminal history information can be verified.

   (ii) The entity that is seeking to employ the person or use the person as a substitute, or which has the person residing in the agency, or the licensee or operator of a child care agency, shall be responsible for obtaining, and submitting the fingerprint sample and any information necessary to process the criminal history review, in such manner as may be required by the Department, to the Tennessee Bureau of Investigation within ten (10) days of the first day of beginning employment or substitute status, or
within ten (10) days of the license application or seeking operator status, or, within ten (10) days of the
application for an initial license for a facility in which the person resides or within ten (10) days after
the resident moves into the child care facility.

(iii) The child care agency shall be responsible for all costs associated with obtaining, handling and
processing of the fingerprint sample which is submitted to the Tennessee Bureau of Investigation. The
Department of Human Services will pay for the costs of processing the criminal records background
check with the Tennessee Bureau of Investigation using the applicant’s fingerprint sample. The
Department shall only pay for one (1) processing fee that is required by the Tennessee Bureau of
Investigation. If the fingerprint sample is rejected, and further costs are required to process the
fingerprint, the child care agency is responsible for any further costs, regardless of the number of efforts
required to obtain a valid fingerprint sample.

(iv) Pending outcome of the fingerprint background check and the Department of Health’s vulnerable
person’s registry the applicant for employment, for a license or for operator or for a substitute position
shall be conditional and shall be dependent upon the background check. No person whose criminal
history disclosure form describes a criminal history or other activities within the prohibitions of subpart
(vii) shall be permitted to be employed as a caregiver, a substitute, director, nor may such person be
allowed to be a licensee, or an operator who has significant contact with the children in the agency’s
care, nor shall such person be permitted to reside in or otherwise have access to children in the child
care facility while children are present.

(v) A copy of the disclosure form and the results of the criminal history check and the results of the
inquiry to the Department of Health’s vulnerable persons registry shall be maintained in the child care
agency’s records for review by the Department of Human Services.

(vi) The child care agency shall immediately review the report of the background check received from
the Department and the Tennessee Bureau of Investigation, and shall immediately consult with the
Department to resolve any questions relative to the person’s status. Upon determination that the
person’s status prohibits the person from having access to children as described in subpart (vii), the
child care agency shall immediately exclude such person from access to children. Failure to exclude the
person under this part or subpart (iv) will result in immediate suspension of the child care agency’s
license.

(vii) Exclusions from access to children based upon criminal history or other status.

(I) No person shall be employed, or otherwise act, as a caregiver or as a substitute caregiver for children
in a child care agency, nor shall any person be a licensee, director, or be an operator who has significant
contact with children in a child care agency, nor shall a person who is a resident in a child care agency
have access to or contact with children in a child care agency, nor shall any other person have any
access to children in a child care agency whatsoever, who:

I. has any pending warrant, indictment or presentment;

II. has been convicted, pled guilty to or pled no contest to any crime or charge, or

III. has any pending juvenile proceeding or previous juvenile finding which, if an adult, would result in
any crime or charge, involving:

A. Any crime, including a lesser included offense derived from any crime involving the physical, sexual, or emotional abuse or gross neglect of a child or any other crimes involving a threat to the health, safety or welfare of a child; or

B. Any crime of violence, including a lesser included offense derived from a crime of violence against another person; or

C. Any crime involving, or lesser included offenses derived from any crime involving, the manufacture, sale, distribution or possession of any drug; or

D. A violation of TCA §§ 39-13-213; 55-10-101; 55-10-102 or 55-10-401 or any felony involving use of a motor vehicle while under the influence of any intoxicant. Such persons under this subitem may not for a period of five (5) years from the date of the conviction or guilty plea be employed or serve as a driver transporting children for a child care agency.

IV. Is listed on the abuse registry maintained by the Department of Health pursuant to Title 68, Chapter 11, Part 10 of the Tennessee Code Annotated; or

V. Known to the management or licensee of a child care agency as a perpetrator of child abuse or child sexual abuse or who is identified to the child care agency’s management or licensee by the Department of Human Services or by the Department of Children’s Services as a validated or indicated perpetrator of abuse of a child based upon an investigation conducted by the Department of Children’s Services or by the child protective services agency of any other state; and

A. who is associated in providing care or ancillary services in any manner within a child care agency; or

B. who is a family member or other person residing at the child care agency’s facility(ies) or adjacent residence of the caregiver; or

C. who has unrestricted access to children in the child care agency as determined by the Department of Human Services.

(II) An employee or volunteer who has been identified by the Department as having neglected a child based on an investigation conducted by the Department of Children’s Services, or any child protective services agency of any state, and who has not been criminally charged or convicted or pled guilty as stated above, shall be supervised by another adult while providing care for children.

(viii) Appeals of exclusions.

(I) Any person who is excluded or whose license or operator status is denied based upon the results of the criminal history background review may appeal the exclusion or denial to the Department within ten (10) days of the mailing date of the notice of such exclusion or denial to the subject person.

Current through rules effective April 2014.
(II) If timely appealed, the Department shall provide an administrative hearing pursuant to Title 4, Chapter 5, Part 3 of the Tennessee Code Annotated in which the appellant may challenge the accuracy of the report, and may challenge the failure to grant an exception to the exclusion or denial required by this subsection if a rule for such purpose has been promulgated by the Department pursuant to subpart (ix).

(III) The appellant may not collaterally attack the factual basis of an underlying conviction except to show that he/she is not the person identified on the record. Further, except to show that he/she is not the person identified in the record, the appellant may not collaterally attack or litigate the facts which are the basis of a reported pending criminal or juvenile charge except to show that such charge was, or since the report was generated, has been dismissed, nolled or has resulted in an acquittal.

(ix) Exemptions from exclusions.

(I) The Department will consider the granting of exemptions from the prohibitions under subpart (vii).

(II) The person seeking the exemption may indicate the request on the disclosure form, or may seek the exemption by written request to the Commissioner at any time. The request shall state the basis for the request, including any extenuating or mitigating circumstances that would, in the person’s opinion, justify an exemption from the exclusion. Any documentary evidence may also be submitted with the request.

(III) Advisory group to review exemption requests.

I. The Department will establish an advisory group composed, at a minimum, of law enforcement personnel, persons experienced in child protective services, persons experienced in child development issues and child care providers licensed by the Department to review the requested exemption and advise the Department as to whether such request is warranted.

II. At the Department’s request, the advisory group shall review the written request and any other evidence in any other form which it determines necessary to determine the status of the exemption request.

III. Based upon the recommendation of the advisory group, the Department shall make the final determination regarding an exemption. The exemption shall only be granted if the circumstances, as reviewed and determined by the advisory group and the Department, clearly warrant the exemption. The decision will be filed with the child care agency and shall be maintained in the Department’s record concerning the agency and shall be open to public inspection.

(IV) Appeal of exemption decision.

I. The Department shall notify in writing the person making the request for exemption of the decision regarding the exemption request and the basis for the decision. A person aggrieved by the Department’s determination may appeal the decision by filing a written request with the Commissioner within ten (10)
days of the mailing date of the decision as shown by the date of the notice. If timely appealed, the person shall be granted an administrative hearing under the provisions of TCA §§ 4-5-301 et seq.

II. The appellant may not collaterally attack the factual basis of an underlying conviction except to show that he/she is not the person identified on the record. Further, except to show that he/she is not the person identified on the record, the appellant may not collaterally attack or litigate the facts which are the basis of a reported pending criminal or juvenile charge except to show that such charge was, or since the criminal background history report was generated, has been dismissed, nolled or has resulted in an acquittal.

(x) Alternate and Supplementary Criminal Background Checks.

(I) The Department of Human Services may, at its own expense, utilize background checks pursuant to the provisions of TCA § 71-3-507(g) or (h) to determine the criminal history or other status on the Department of Health’s abuse registry of persons applying to work or who are current employees, licensees, operators or volunteers or current residents of child care agencies or persons working with contractors of the Department who are not otherwise required by the provisions of this subparagraph or any other provisions of law to undergo a criminal history background check. The Department may also utilize the abuse registry of the Department of Health under Title 68, Chapter 11, Part 10 of the Tennessee Code Annotated, for such persons.

(II) The Department may require such individuals to complete a disclosure form as required by subpart (i) and to undergo a fingerprint sample. The Department will submit the form and the fingerprints to the Tennessee Bureau of Investigation for review.

(III) Status Pending Background Check.

I. Pending the outcome of the background check, if required, the applicant for employment or licensee or operator status or for a substitute or volunteer services position, shall be in a conditional status with the child care agency or the Department contractor, and such status shall be dependent upon the outcome of the background check.

II. The employment status of persons for whom a post-employment criminal background check was conducted, or the status of existing licensees or operators, substitutes, volunteers or residents of a child care agency for whom a criminal background check was conducted after license approval, and who were not otherwise subject to a pre-status applicant background check and to the exclusionary provisions provided in this part, shall be governed by any regulations which may govern their status in a regulated entity or by applicable employment law.

(IV) Name Searches.

I. As a further supplemental method of criminal background history review for any applicants for employment, license or operator status, or for substitute or volunteer status with child care agencies, or with the Department or its contractors, as listed in subdivision TCA § 71-3-501(g)(1) or with the entities which the Department may regulate, or for residents of new child care agencies, or for current employees, licensees, operators, substitutes or volunteers of child care agencies or for current residents of child care agencies, the Department may require such persons to submit a disclosure form as set forth
II. The Department may, by agreement with the Tennessee Bureau of Investigation, access the Bureau’s criminal history computer database using only the name of the person and such other person as contained on the disclosure form or such other information as may be available. If the Department determines it to be necessary, then the Department may require fingerprint verification pursuant to items (I) and (II) above.

(V) All provisions of subpart (vii) including, but not limited to, the exclusion of individuals from providing care, from being licensed for the care of children or having access to children upon determination of the criminal background or perpetrator of such individual, the suspension of operations of regulated, certified or approved entities that fail to exclude persons with a criminal background, and the exemptions from the exclusionary provisions shall be applicable to persons having criminal backgrounds or perpetrator status as determined by the processes established by this part.

(VI) Any person disqualified from care for or access to children based upon the results of the criminal history background review under this part may appeal that determination to the Department as provided in subpart (viii).

(VII) Nothing in this part shall be construed to prevent the exclusion of any individual from providing care for, from being licensed or approved for the care of children pursuant to this part or from having access to a child in a child caring situation if a criminal or juvenile proceeding background or perpetrator status is discovered and verified in any other manner other than through a procedure established pursuant to this chapter. All procedures, rules, and appeal processes established pursuant to this subparagraph for the protection of children and the due process rights of excluded individuals shall also be applicable to such individuals.

(xi) Nothing in this part shall be construed to mean that any other law which mandates that criminal background checks be conducted on applicants for employment, license or operator status, for substitute or volunteer positions or for resident status is made voluntary, repealed or superseded in any manner by the provisions of this subparagraph, and the provisions of subpart (x) are supplementary to, and are not in lieu of any mandatory provisions for such other statutorily required criminal background checks.

7. Reserved

8. All caregivers shall be able to explain emergency procedures to follow in case of fire, serious injury or illness of a child or a caregiver, or disaster.

9. All caregivers shall have training in detection, reporting, and prevention of child abuse.

10. All caregivers shall have a minimum of two hours training annually, in addition to other required training in specific subject areas.

(b) Primary Caregiver

Current through rules effective April 2014.
1. A primary caregiver or any substitute for him/her, shall be 18 years of age or older.

2. A primary caregiver shall be able to read and write English.

3. A primary caregiver shall complete a DHS-sponsored child-care orientation class within three months of licensure.

4. A primary caregiver shall annually complete at least four hours of workshops or other training, or present evidence of four hours of consultation or of personal study (one-time only), in child care or a related field. After the first year of licensure, this training shall be in addition to other required training [such as Child and Adult Food Care Program (CAFCP), personal safety or first aid, etc.].

5. A primary caregiver shall not be employed at any other occupation during child care operating hours.

(c) Central Operator.

1. In order to receive a license, the central operator or person in charge of a child care system (or multiple homes) shall have:

   (i) Graduated a four-year college or university and completed one year of full-time work experience with a group of young children; or

   (ii) Completed some formal college training in early childhood education or child development (or related field), or received a Child Development Associate (CDA) credential or National Association of Family Day Care (NAFDC) accreditation, and completed one year of full-time work experience with a group of young children; or

   (iii) A high school diploma or its equivalent (See “Definitions” in Chapter 1240-04-.01) and two years full-time work experience with a group of young children.

2. The central operator or person in charge of the child care system shall complete a DHS-sponsored child-care orientation class within three months of licensure.

(2) Caregiver To Child Ratios And Supervision.

(a) An adult caregiver (at least 18 years of age) shall be present and supervising children in care at all times.

(b) The total number of children (including “related” children under nine years of age) shall not exceed 12. (See Chapter 1240-04-.01 for definition of “related”.)
Tennessee Rules and Regulations Currentness 1240. Department of Human Services 1240-04. Adult and Family Services Division Chapter 1240-04-01. Standards for Group Child Care Homes (Refs & Annos)

(c) A family day care home shall comply with one of the following two options at all times.

1. Family Day Care Homes with One Caregiver:

   (i) The total number of children in a family day care home with one caregiver shall not exceed seven, including ‘related’ children under nine years of age, and

   (ii) In a home with one caregiver, the number of children under two years of age shall not exceed four.

2. Family Day Care Homes with More than Seven Children:

   (i) If the number of children, including the primary caregiver’s “related” children (See Chapter 1240-04-04-.01 for definition of “related”), exceeds seven, one of the following options shall be met at all times:

<table>
<thead>
<tr>
<th>Option</th>
<th>Group Size and Ages</th>
<th>Caregivers Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>More than 7 children (including “related” children under age 9), no more than 4 under age 2.</td>
<td>2</td>
</tr>
<tr>
<td>B</td>
<td>More than 7 children (including “related” children under age 9), with more than 4 under age 2.</td>
<td>3</td>
</tr>
</tbody>
</table>

(d) If any child’s physical or mental condition requires special care, or when a field trip is taken off premises, the number of caregivers required (any option) shall be increased by one.

(1) General.

Current through rules effective April 2014.
(a) All equipment shall be well made and safe with no sharp edges, splinters, or other conditions which present a hazard for children.

(b) Unsafe equipment shall be repaired or removed from the day care home or play yard at once.

(c) Babies and toddlers shall have additional equipment for comfort and safety, such as cribs, high chairs, etc.

(d) School-aged children shall have educational materials such as puzzles, craft items, etc., and equipment suitable for their size, interests, and needs.

2 Indoor Play Equipment.

(a) The day care home shall have play equipment for active and quiet play, suitable for the children’s ages and interests and for children with special needs, and for all activities required in the Program Section. (See Chapter 1240-04-04-.05.)

(b) Play materials and equipment shall be in sufficient quantity to provide twice as many activities as there are children at a given time.

(c) Play materials and equipment shall be placed in such a way that children can get it and return it when needed, so that they can grow in independence.

3 Outdoor Play Equipment.

(a) Enough play equipment shall be provided so that each child can take part in many kinds of play each day.

(b) Equipment shall be placed to avoid accidents, for example, swings placed out of traffic paths.

(c) If there are climbers or swings, they shall be placed on a resilient surface and not over concrete, asphalt, or a similar surface such as hard-packed dirt.

(d) Climbers, swings, and other large equipment shall be securely anchored.

(e) If used, retainer structures for loose material, such as sand or pea gravel, shall be placed at least six (6) feet from the perimeter of play structures.
(1) Activities.

(a) A balanced daily program of developmentally appropriate activities shall be provided which includes some of the following: reading to and talking with children; art and music activities; building and manipulating toys; and dramatic play activities such as doll play, housekeeping, and role play. Children shall also be allowed to participate in age-appropriate home-type activities, such as cooking, cleaning, gardening, and washing clothes as a meaningful learning experience.

(b) There shall be a written and posted schedule of daily routine activities.

(c) Children shall be given opportunity to make their own choices in some activities. Other play activities shall be planned by the caregiver.

(d) Children shall not spend all day in one room, unless the room has at least 30 square feet of usable play space per child.

(e) Television, video tapes, and movies shall be limited to two hours per day and to programs designed for children's education and/or enjoyment. Programs/movies with violent or adult content (including “soap operas”) shall not be permitted in children’s presence. Other activities shall be available to children during television/movie viewing.

(f) Except when the weather is extremely bad, children of all ages (including infants and toddlers) shall have outdoor play each day.

(2) Discipline.

(a) Discipline techniques used shall be positive, appropriate to the age level and needs of children in care; designed to help children learn and maintain self-control and self-esteem; and shall not involve physical punishment, or deprivation of food, rest, or toileting. (Physical or corporal punishment is the infliction of bodily pain as a penalty for the child’s behavior of which the punisher disapproves.)

(b) Praise and encouragement of good behavior shall be used instead of noticing only unacceptable behavior.

(c) Punishment which is shaming, humiliating, frightening, or injurious to children shall not be used.

(3) Physical Care And Naps.

(a) Preschool children shall have a reclining rest period according to their individual needs. School-aged children shall be allowed to nap if needed but not forced to do so.

Current through rules effective April 2014.
(b) Each toddler who is able to walk and each preschooler shall have individual napping space, something soft and at least two inches thick to sleep on, and clean bedding. (Examples: couch with cover thick sleeping bag or foam pad, family bed with cover, or cot with cover.)

(c) Each child under 15 months of age and any child unable to walk shall have his/her own crib or playpen and bedding for napping.

(d) Because of the risk of Sudden Infant Death Syndrome (SIDS), sleeping infants (under 13 months) shall be checked every 30 minutes by touching them. If a child appears not to be breathing, emergency medical assistance shall be sought immediately.

(e) Each child shall have his or her own clean sheet and coverlet.

(f) After a child has rested for a reasonable period, she/he shall be allowed to get up.

(4) Physical Care - Toilet Training.

(a) Toilet training shall never be started until a child has been in the day care home long enough to feel comfortable.

(b) Toilet training shall not be started until a child is able to understand, to do what is asked of them, and to let their need to use the bathroom be known.

(c) Children shall not be made to sit on the potty or toilet for more than five minutes.

(d) Children shall be diapered or cleaned when needed in a safe, sanitary manner.

(5) Personal Safety Curriculum.

(a) For ages three (3) through school-age, a curriculum shall be offered that shall include instruction, at least once a year, in personal safety.

(b) Personal Safety Curriculum Components and Guidelines.

1. The personal safety curriculum shall include a Department-recognized component for the prevention of child abuse, including, for children four (4) years of age and older, a child sexual abuse prevention component.

2. The curriculum shall be based upon curriculum guidelines provided by the Department to the child care provider in any suitable format. The child care provider may choose terminology and instructional methods for this curriculum with a goal of providing clear, effective and appropriate instruction to the children in personal safety, including the prevention of all forms of child abuse.

Current through rules effective April 2014.
(c) Personal Safety Instruction Requirements for School-Age Children.

1. For school-age children, the curriculum shall include instruction for reporting physical, sexual or verbal abuse.

2. Children of school-age shall not be required to receive personal safety instruction from the child care agency if they annually receive personal safety instruction as required by this paragraph (5) in the curriculum of their local public education agency, or, if they receive such instruction in any other educational setting, as approved, in either circumstance, by the Department.

3. Documentation of Personal Safety Instruction in Educational Settings.

   (i) Written documentation, in a form and manner approved by the Department, verifying that annual personal safety instruction as required by this paragraph (5) is being provided in a public educational setting to each child enrolled in the child care agency, shall be maintained on file with the Department.

   (ii) For children who do not attend public schools, the child care provider shall secure and maintain documentation, in a form and manner approved by the Department, verifying that each school-age child enrolled in the child care agency is receiving annual personal safety instruction as required by this paragraph (5).

(d) Beginning October 1, 2008, the personal safety curriculum used by a child care agency shall be made available by the child care agency to parents and legal guardians for review. The child care agency shall use a standard notification form developed by the Department that will be provided to the parents or legal guardians by the child care agency to confirm that the parents/guardians have been notified of the curriculum to be used and of their opportunity to review the personal safety curriculum.

(e) The record of each enrolled child shall include a copy of the signed notification form acknowledging that parents/legal guardians have been provided an opportunity to review the agency’s personal safety curriculum, and have been notified of the sexual abuse/personal safety curriculum for their child.

(f) If parents/legal guardians have questions regarding the personal safety curriculum, a representative of the child care agency shall meet with the parents/legal guardians to discuss the curriculum.

Tenn. Comp. R. & Regs. 1240-04-04-.06
1240-04-04-.06. HEALTH AND SAFETY.

(1) Children’s Health Records.

(a) Before a preschool child older than eight weeks is accepted for care, he/she shall have proof of being age-appropriately immunized against the following diseases: Diphtheria, Tetanus, Pertussis, Polio, Measles,
Tennessee Rules and Regulations Currentness _1240. Department of Human Services _1240-04. Adult and Family Services Division _Chapter 1240-04-01. Standards for Group Child Care Homes (Refs & Annos)

Mumps, Rubella, and Hemophilus Influenza Type “B” by having a certification form signed or stamped by a certified health care provider. (Children of six through eight weeks of age may be enrolled before immunizations are begun.)

(b) Records of children older than 18 months shall state whether immunizations required for care are complete, and if not complete, when future immunizations will be given. If immunizations are not continued on time by the parent, the child shall not remain in care. If a child has any known allergies, they shall be indicated in the child’s health record. Foreign-born children shall also present evidence of Tuberculosis (TB) screening. (See Appendix B for information about TB screening.)

(c) A copy of each infant/toddler’s or preschool child’s immunization record shall be on file in the day care home and available to appropriate staff. (Children of six through eight weeks of age may be enrolled before Immunizations are begun.)

(d) Before a school-aged child is accepted for care, the caregiver shall have on file a statement from the parent (or school) that the child’s immunizations are current and that their health record is on file at the specified school which the child attends.

(e) If children with mental, physical or sensory impairment or with a medical disorder are enrolled, their health records shall include a physician’s statement which identifies the disabling condition and which gives the physician’s special instructions for the child’s care.

(f) Before infants or toddlers aged 30 months and under are enrolled, they shall have proof of a physical examination within three months prior to admission, signed or stamped by a physician or health care agency. Each infant shall have on file an official health record of the first medical check-up at eight weeks of age.

(g) Exceptions to the above requirements in this section shall be made when:

1. The child’s physician or the Department of Health provides a signed and dated statement, giving a medical reason why the child should not be given a specified immunization; or

2. The child’s parent provides a written statement that such immunizations conflict with his/her religious tenets and practices.

(h) Accidents and injuries to children shall be noted in their records (including date and time occurred) description of circumstances and action taken by caregivers.

(2) Children’s Health Requirements.

(a) Children shall be checked upon arrival and observed for signs of communicable disease during the day. Every sign of illness or injury shall be reported to the parent as soon as possible but no later than the end of the day in which it occurred.

(b) Parents of every child enrolled shall be notified if one of the following communicable diseases has been

Current through rules effective April 2014.
providers shall report the occurrence of the above diseases to local health department.

(c) Prescribed and nonprescribed, internal and external medication shall not be administered to a child except under the direction of a physician or with the parent’s written authorization. Medications or drugs shall be labeled with the child’s name and specific instructions for administering them. Administration of medications and noticeable side effects shall be charted and reported to parents. Medication shall not be handled by children and shall be stored so as to be inaccessible to children.

(d) Good hygiene shall be practiced, such as frequent handwashing; one-time use of tissues, napkins, and washcloths; proper storage and use of personal articles; and hygienic diapering techniques.

3) Caregiver’s Health Requirements

(a) Before beginning to work, each caregiver shall have written evidence of a physical examination and statement that the caregiver’s general physical and mental condition will permit the individual to direct and actively participate in the activities of a group of young children. The form or statement shall be signed or stamped by a physician.

(b) An updated statement of each caregiver’s physical health shall be obtained every third year or more often, if deemed necessary by the Department. A statement of a caregiver’s mental or emotional health shall be obtained from a psychiatrist or clinical psychologist, when deemed necessary by the Department.

(c) Each caregiver (whether employed full-time or part-time), volunteers, and others who are in contact with the children 30 or more calendar days per year shall have on file evidence of a tuberculin skin test or chest X-ray with negative results, in accordance with Department of Health recommendations. (See guidelines in Appendix B.)

(d) Caregivers shall not smoke while physically interacting with the children. Parents shall be informed if anyone in the home smokes.

(e) For the protection of children and adults, caregivers and helpers shall wash their hands immediately after changing a child’s diaper, or aiding in toileting, before changing or aiding another child.

(f) For the protection of children and adults, when blood is to be handled (e.g., resulting from injury to a child or adult, from nosebleed or from spillage), vinyl or latex gloves shall be used and properly disposed of following use with/by one individual.

(g) Following a diaper change or blood spillage, surfaces shall be cleaned and sanitized with a solution of 1/4 cup chlorine bleach to one gallon of water.

4) Safety.
(a) The primary caregiver shall have evidence of completing, or being currently enrolled in, a pediatric First Aid course (a minimum of three hours) taught by a qualified instructor. (See Recommendations.)

(b) The primary caregiver shall have evidence of completing, or being currently enrolled in, a pediatric CPR course (a minimum of three hours) taught by a qualified instructor. (See Recommendations.)

(c) First aid information shall be posted, and caregivers and helpers shall be familiar with it.

(d) A First Aid kit shall be available to staff. The contents shall include a digital thermometer, bandages, and other items listed in “Appendix C”.

(e) The home shall have a working telephone accessible to caregivers for incoming and outgoing calls.

(f) These telephone numbers shall be posted near the telephone: Fire Department, Law Enforcement, Hospital, Child Abuse Hotline, Civil Defense/Emergency Management, and numbers where parents may be reached. Rescue Squad, Ambulance and Poison Control Center numbers shall also be posted if available in the community.

(g) All homes shall annually present a child sexual abuse prevention program to children enrolled in and cared for by the home.

(h) Suspected abuse or neglect of a child shall be reported immediately to the local DHS office. Failure to do so is, by itself, grounds to deny or revoke the agency’s license.

(i) The primary caregiver shall be reasonably prepared to protect children in the event of a disaster by knowing who to contact and how to cooperate with the local Emergency Management Plan.

(j) Emergency transportation shall be planned for and shall be provided as needed.

(k) Firearms and other deadly weapons or tools on the premises shall be secured in such a way that they are inaccessible to children.

(l) Use of swimming pools shall comply with Environmental Sanitation Regulations in “Appendix E”. Wading pools which have not been approved by the environmentalist shall not be used.

(m) Pets shall be vaccinated in accordance with a Veterinarian’s recommendation. Unconfined pets and children shall not be together on a regular basis. An adult shall be present while pets are with children. Animals and birds shall not be allowed in areas of food storage, preparation, or service.

Tenn. Comp. R. & Regs. 1240-04-.07
1240-04-.07. TRANSPORTATION.

Current through rules effective April 2014.
(1) Management Responsibility, Loading/ Unloading and Verification Procedures; Staff Qualifications.

(a) Management Responsibility.

1. Existing child care agencies, or those applying or re-applying for licenses, that provide transportation services, must provide a written statement to the Department describing:

   (i) The type(s) of transportation that will be offered, e.g., from the child’s home to the child care agency, from the child care agency to the child’s school, etc.;

   (ii) The types of vehicles that will be used for the transportation of children, e.g., a 1999 fifteen (15) passenger Ford van;

   (iii) Any contracts, agreements or arrangements with any third parties for the provision of transportation services;

   (iv) The provider’s plan for maintaining compliance with the transportation time limits set forth in 1240-04-04-.07(6);

   (v) The provider’s policy and procedures for maintaining compliance with the transportation verification procedures set forth in 1240-04-04-.07(1)(b);

   (vi) The provider’s policy and procedures for attaining and maintaining compliance with child restraint procedures required by: these rules; Tennessee Code Annotated, Title 55, Chapter 9, Part 6; applicable Federal Motor Vehicle Safety Standards relative to child safety restraints, and; the child restraint and vehicle manufacturer’s design requirements for the type of child restraints and vehicles used to transport children; and

   (vii) The provider’s policy and procedures for the emergency evacuation of the vehicle.

2. The child care home’s management shall be fully responsible for the transportation of children between home and the child care home, to or from school, and/or on field trips on any vehicle which it operates, for which it contracts or which is otherwise under its direction or control.

3. Vehicles used to transport children and which are owned or operated by, contracted for or which are otherwise under the direction and control of the child care agency, shall carry automobile liability insurance coverage for each vehicle used for that purpose in the minimum amounts required by Rule 1240-04-04-.02(7).

(b) Loading/ Unloading and Verification Procedures.
1. The driver of the vehicle or any other designated staff person riding on the vehicle shall use a passenger log to record the name of each individual child received for transport as the child enters the vehicle. No child shall be accounted for by use of a single entry in the log that would include all, or part, of a group of other siblings or relatives with the same last name and with whom the child is being transported. For example, three (3) siblings with the same last name, e.g., “Doe”, who are transported on the same vehicle shall not be recorded by the single entry “Doe” which only records the group’s last name and is used by the child care home to signify that all three (3) “Doe” children are accounted for. Each child shall, instead, be separately listed by first and last name.

2. During transportation, the passenger log shall be used to take roll each time the vehicle makes a stop as each child is loaded or unloaded.

3. Whenever children being transported are released from the vehicle to their parent or other designated person, the passenger log shall immediately be updated to reflect which children have been released.

4. Immediately upon unloading the last child/children from the vehicle, and to ensure that all the children being transported have been unloaded, the driver and any other staff members riding on the vehicle shall immediately deliver the passenger log to the person designated by the child care home in part 5 and shall immediately:

   (i) physically walk through the vehicle; and

   (ii) inspect all seat surfaces, under all seats in all compartments or recesses in the vehicle’s interior.

5. Additional caregiver/staff review and verification requirements.

   (i) The child care home shall also designate a caregiver or management level staff person, other than the person responsible for the recording in the passenger log on the vehicle, who shall provide additional review and additional verification that the children have been unloaded from the vehicle and properly accounted for.

   (ii) When unloading children at the child care home or field trip destinations, or when, prior to being parked at the child care home or other location, and to ensure that all children have been unloaded, the person designated pursuant to subpart (i) of this part 5 shall also immediately request the passenger log from the person on the vehicle responsible for maintaining the log and shall immediately:

      (I) reconcile the passenger log with the children’s attendance records; and

      (II) conduct the same inspection as required in subparts (1)(b)4(i) and (ii) above.

   (iii) Verification of the passenger logs and attendance records required by this subparagraph (b) shall be made by having the printed name of the persons who complete the logs and records written or printed on the passenger log and attendance record accompanied by the handwritten initials of such persons. Passenger logs and attendance records shall be maintained for a period of one (1) year or until the next
6. The driver or any accompanying staff member shall assure that every child is received by a parent or other designated person.

7. When children are transported to school, they shall be released in accordance with the following procedures:

   (i) the children shall be unloaded only at the location designated by the school;
   (ii) the children are only allowed to unload from the family child care home’s vehicle at the time the school is open to receive them;
   (iii) the driver/caregiver shall watch the children who are unloaded from the vehicle walk through the entrance door designated by the school for the children; and
   (iv) any additional procedures established by the school.

8. The provisions of this subparagraph (b) apply to child care agency staff and to personnel operating vehicles for any contracted transportation service for a licensed or approved child care agency or for any other transportation service that is under the direction or control of a child care agency, that provides such services for children enrolled in the child care agency.

(c) Transportation Staff Qualifications.

1. Driver License Requirements.

   (i) All persons responsible, or who may in the course of their duties become responsible, at any time, for driving a vehicle that transports children enrolled in the child care agency, shall hold, at a minimum, a current Tennessee driver license with an “F” (“for hire”) endorsement pursuant to T.C.A. § 55-50-102(20)(F) unless such persons already have an endorsement or hold a license which the Department of Safety recognizes as inclusive of the “F” endorsement requirements, or shall hold such other license or endorsement provided for by State law or regulation governing driver qualifications for the type or size of vehicle used, or which may otherwise govern driver qualifications, for transportation of children enrolled by licensed or approved child care agencies.

   (ii) Effective January 1, 2004, all persons subject to this part 1 shall obtain a certification document from the Department of Safety to signify that they have passed additional written or skills tests required for persons who may, in the course of their duties drive a vehicle that transports children enrolled in a child care agency.

   (iii) Effective January 1, 2004, all persons subject to this part 1 shall be required to obtain annual training that is utilized for school bus drivers offered by the Department of Safety or such other equivalent training as the Department of Safety may determine is appropriate.
(iv) Evidence of completion of the requirements in subparts (i)-(iii) for each person employed or otherwise utilized by the agency under any contract or any other arrangement shall be maintained in the records of the child care agency. Failure to obtain or timely exhibit completion of this additional certification when requested shall result in ineligibility of the person from any further driving duties for the child care agency until such requirements are fulfilled.

2. Health Examinations and Drug Screenings.

(i) Health Examinations.

All persons driving vehicles at any time for the transportation of children enrolled in the child care agency shall annually provide to the Department a health statement or statements, based upon an examination of the individual, that are signed by the examining licensed physician, licensed psychologist, licensed clinician, Nurse Practitioner, or Physician’s Assistant, verifying that the individual is physically, mentally and emotionally capable in all respects of safely and appropriately providing transportation for children.

(ii) Drug Screenings.

(I) Any person, in accordance with procedures established by the Department, shall pass a drug screen:

I. Prior to such person being employed as a full or part-time employee with a licensed or approved child care agency for a position which has any duties involving driving any vehicle utilized by the child care agency to transport children enrolled in that child care agency; or

II. Prior to such person being employed, in any position which has any duties involving driving any vehicle utilized to transport children enrolled in any child care agency, as a full-time or part-time employee by a contractor of a licensed or approved child care agency, or by any other persons or entities, any of which transports, for any compensation, children enrolled in the care of the child care agency as part of the agency’s transportation program or service for such children offered by such child care agency; or

III. Prior to the assumption, at anytime, of any driving duties by an existing full-time or part-time employee of the licensed or approved child care agency, or, of an existing full-time or part-time employee of a contractor or other person or entity providing transportation, for compensation, to the child care agency as part of such child care agency’s transportation program or service.

(II) Effective January 1, 2004, all existing drivers who have been previously assigned by the child care agency or its contractors or by any other person or entity as a driver of any vehicle providing child care transportation for a licensed or approved child care agency, under any arrangement and who have not been tested as required by item (I), shall have a drug screen in accordance with procedures established by the Department.

(iii) The child care agency shall immediately review the results of the drug screen upon receipt, and
upon receipt by the child care agency of a positive drug screen result for an employee of the child care agency, or upon receipt of notification of such result for a tested individual from a contractor or other person or entity providing transportation, for compensation, to the child care agency as part of such child care agency’s transportation program or service, the child care agency shall immediately:

(I) Notify the Department and prohibit, or require its contractor or other entity providing transportation for compensation to the child care agency as part of the child care agency’s transportation program to prohibit, the individual from any driving duties involving any transportation of children enrolled in the child care agency; and

(II) Enter into a safety plan approved by the Department that excludes the individual from driving for the child care agency until the individual passes a drug screen test and is otherwise approved, in writing, by the Department, to provide driving duties involving the transportation of children for the child care agency.

3. Prior to assuming their duties, all persons responsible, or who may in the course of their duties become responsible, at any time, for transporting children (including drivers and monitors) shall complete Department of Human Services-recognized pre-service transportation training in:

(i) The proper daily safety inspection of the vehicle set forth in subparagraph (2)(b) below;

(ii) The proper use of child safety restraints required by these rules, Tennessee Code Annotated, Title 55, Chapter 9, Part 6, applicable Federal Motor Vehicle Safety Standards relative to child safety restraints, and; the restraint and vehicle manufacturer’s design requirements for the type of child restraints and vehicles used to transport children;

(iii) The proper use of the verification procedures set forth in subparagraph (1)(b) above;

(iv) The proper use of a blood borne pathogen kit;

(v) The proper procedures for the evacuation of the vehicle based upon the type of vehicle and the ages of the children served; and

(vi) The developmentally appropriate practices applicable to the behavior management of children during transportation.

4. Following the completion of pre-service transportation training, all persons responsible at any time for the transportation of children (including drivers and monitors), shall complete Department of Human Services-recognized transportation training that includes the subject matter set forth in 1240-04-04-07(1)(c)3, above, a minimum of every six (6) months.

5. Emergency Aid Training.

(i) All persons responsible, or who may in the course of their duties become responsible at any time, for
the transportation of children shall hold current certification in Infant/Pediatric Cardiopulmonary Resuscitation (CPR) from the American Red Cross, the American Heart Association, or other certifying organization, as recognized by the Department.

(ii) Effective July 1, 2004, all persons responsible, or who may in the course of their duties become responsible at any time, for the transportation of children shall complete a first aid course sponsored or approved by the American Red Cross, or other first aid course, as recognized by the Department.

6. The provisions of this subparagraph (c) apply to child care agency staff and to personnel operating vehicles for any contracted transportation service for a licensed or approved child care agency or for any other transportation service under the direction or control of a child care agency.

7. The requirements of 1240-04-04-.07(1)(c) do not apply to individuals who provide transportation services exclusively for occasional field trips.

(2) Vehicle Inspections; Passenger Limitations; Vehicle Design Requirements; Child Seating Space Requirements; Emergency Equipment; Prohibition of Firearms or other Weapons on Vehicles.

(a) The requirements of this paragraph (2) include vehicles used at anytime for the regular child care vehicle(s) and those used as back-up vehicles. Exception: The requirements of this paragraph (2) do not apply to vehicles operated solely for the purpose of providing transportation for occasional field trips.

(b) The child care agency shall maintain, and shall require providers of transportation services for children under contract to the agency or under the agency’s direction or control to maintain, documentation that designated child care, contractor, or other entity staff perform daily the following inspections, followed by any necessary repairs or other appropriate actions, before beginning transportation of children for the child care agency:

1. A visual inspection of the vehicle’s tires for wear and adequate pressure;

2. A visual inspection for working headlights and taillights, signals, mirrors, wiper blades and dash gauges;

3. An inspection for properly functioning child and driver restraints;

4. An inspection for properly functioning doors and windows;

5. An inspection for the presence of safety equipment required by these rules or any other provisions of law or regulations, and repair or replacement as necessary based upon visual evidence of the need do so;

6. A determination that the vehicle has adequate fuel; and

7. An inspection for, and cleaning of, debris from the vehicle’s interior.

Current through rules effective April 2014.
(c) The child care agency shall maintain, and shall require providers of transportation services for children under contract to the agency or under the agency’s direction or control to maintain, documentation that the vehicles used to transport children receive regular inspections and maintenance by a certified mechanic in accordance with the maintenance schedule recommended by the vehicle manufacturer, and, in addition shall have the following vehicle equipment certified as inspected at least every four thousand (4,000) miles if not covered by, and/or serviced in accordance with the manufacturer’s maintenance schedule:

1. Brakes;
2. Steering;
3. Oil levels, coolant, brake, windshield washer and transmission fluids;
4. Hoses and belts.

(d) Beginning January 1, 2004, the Department of Safety will conduct annual vehicle safety inspections on all vehicles used by the child care agency directly, under contract, or under the control or direction of the agency designed by the vehicle manufacturer to carry ten (10) or more passengers. Any necessary maintenance or repair to the vehicles disclosed by the inspections shall be the sole responsibility of the child care agency.

(e) All documentation of the child care agency or providers of transportation services for children under contract to the agency or under the agency’s direction or control shall be made available upon request to Department staff.

(f) No vehicle which does not pass the inspections required in subparagraphs (b), (c) or (d) shall be used by the child care agency or by its contractors, or others subject to the agency’s direction and control, to provide transportation services until necessary repairs, as determined by the Department, have been made.

(g) Passenger Restraints, Capacity Limitations and Cargo Requirements.

1. All children and adults riding in a vehicle used to transport a child to and from a child care agency, to and from school, or to and from field trips must be restrained by separate passenger restraint devices in the vehicle’s seating area, at a minimum, as required by state or federal law or regulation, or, as otherwise required by these rules.

2. The total number of adults and children in vehicles used for the transportation of children enrolled in a licensed or approved child care agency shall never exceed the manufacturer’s rated passenger capacity.

3. In a vehicle being used for the transportation of children enrolled in a licensed or approved child care agency, all cargo, luggage or equipment of any type shall be adequately secured at all times in such manner as to protect the passengers in case of accident or emergency maneuvers.
4. The provisions of this subparagraph (g) also apply to vehicles operated by any contracted transportation service for a licensed or approved child care agency, or for any other transportation service under the direction or control of a child care agency.

(h) Requirements for Child Care Transportation Vehicles Effective January 1, 2007.

1. Effective January 1, 2007 all vehicles that the child care agency operates, for which it contracts, or which are otherwise under its direction or control, that are designed to carry ten (10) or more passengers must conform to all Federal Motor Vehicle Safety Standards (FMVSS) governing either “large” school buses or “small” school buses, as applicable, in accordance with the provisions of the FMVSS described in 49 Code of Federal Regulations Part 571, or as such Part may be amended.

2. Effective January 1, 2007, if buses in either the “large” or “small” classes of school buses under the FMVSS are used, they must have factory-installed passenger restraint anchorages and passenger restraints that are suitable for use in transporting children of any age who are to be transported on either a “large” or “small” school bus.

3. The requirements of this subparagraph (h) do not apply to vehicles used exclusively for the provision of occasional field trips.

(i) A minimum of ten (10) inches seat space per child is required in a vehicle transporting children.

(j) A vehicle used to transport children shall have fire extinguishers, emergency reflective triangles, a first aid kit and a blood-borne pathogenic clean-up kit, and an adult familiar with the use of this equipment on board. Emergency exiting procedures shall be practiced on a regular basis by all staff responsible for transporting children.

(k) The carrying, possession or storage of firearms or other weapons is prohibited in vehicles used to transport children.

(3) Vehicle Signage Requirements; Exceptions.

(a) The requirements of this paragraph (3) are effective March 1, 2003, and are applicable to all vehicles used for the transportation of children enrolled in a child care agency licensed or approved by the Department, including vehicles operated by a contractor of the agency or vehicles operated by any other provider of services under the direction or control of the child care agency, unless specifically exempted by the provisions of subparagraph (e) below.

(b) All vehicles used for the transportation of children enrolled in the child care agency must, as determined by the Department, clearly and readily identify to the driving public that the vehicle is used for the transportation of children who are in child care.

1. On each side of the vehicle the following information shall be displayed:

Current through rules effective April 2014.
(i) The full name of the child care agency and emergency contact number for the agency in any font or color, including the agency’s current logo and lettering scheme; provided that the lettering is not less than one and one-half inches (1½"") in height and is clearly readable at a distance of fifty feet (50’) on a stationary vehicle in daylight conditions; and

(ii) The words “Child Care Transportation Complaints” followed by the Department of Human Services’ toll-free Child Care Transportation Complaint phone number in black lettering in a block font, not less than one and one-half inches (1½"") in height. This text shall appear on a clearly contrasting background that is clearly readable at a distance of fifty feet (50’) on a stationary vehicle in daylight conditions.

2. On the rear of the vehicle the following information shall be displayed:

(i) The full name of the child care agency and the words “Child Care Transportation Complaints” followed by the Department of Human Services toll-free Child Care Transportation Complaint phone number in black letters in a block font not less than one inch (1”) in height on a clearly contrasting background that is clearly readable at a distance of forty feet (40’) on a stationary vehicle in daylight conditions.

(ii) The provisions of this part (2) shall not apply to passenger automobiles (excluding minivans) used for transportation by the child care agency with a manufacturer’s rated seating capacity of six (6) or fewer passengers.

(c) The information required in subparagraph (b) must be applied to the vehicle in one of the following formats:

1. Painted directly on the vehicle in accordance with the paint manufacturer’s instructions using paint recommended by the paint manufacturer as appropriate for use on a vehicle; or

2. A weather-resistant sign securely fastened to the vehicle. The term “securely fastened” includes magnetic signs and signs bolted to the vehicle. The term does not include adhesives such as tape or glue unless recommended by the adhesive manufacturer as being appropriate for outdoor use on a vehicle.

(d) Special Requirements for Centralized Transportation.

1. Central operators or any other entity that may own or operate more than one child care agency and which may provide centralized transportation services for its child care agencies; and/or

2. Contractors, or other transportation service providers under the direction or control of the child care agency, which may provide centralized transportation services to more than one child care agency may substitute for the name and phone number of the child care agency required by parts 1240-04-04-.07(3)(b)1 and 2 above the full name and emergency contact number of the central operator, contractor or other transportation service providers under the direction or control of the child care agency. If the name on the vehicle does not clearly designate the agency or entity as one providing child care transportation, words such as “Child Care Transportation Vehicle” or “Child Care Transportation Services”, or similar...
language approved by the Department, must be displayed on the vehicle in a manner that demonstrates, as determined by the Department, that the vehicle is providing child care transportation.

(e) Exceptions to Vehicle Identification Requirements.

1. Vehicles used exclusively for the provision of occasional field trips; and

2. Vehicles used exclusively for the limited provision of emergency transportation, e.g., as a result of the mechanical breakdown of the regular child care vehicle.

3. The Department may, in its discretion, determine if exceptions to the requirements of this paragraph (3) may be made for child care agencies owned, operated, or under the direction or control of a public agency. For purposes of this subparagraph (e), a “public agency” is any entity controlled, owned or operated by a state, county or local entity, or a political subdivision of the State of Tennessee.

4. The Department may, in its discretion, determine if certain child care agencies may be exempted from any or all of the requirements of this paragraph (3) due to facts which may clearly warrant such exemptions.

(4) Child Safety Restraints.

(a) The provisions of this paragraph (4) shall apply to any vehicle used to transport children as of the effective date of these rules, unless stated otherwise by the rule. Any vehicle whether:

1. A passenger car;

2. A stock or custom van or sport utility vehicle;

3. A school bus classified as a “small” or “large” bus as required in FMVSS contained in 49 Code of Federal Regulations Part 571; or

4. Any other vehicle must be properly equipped with the child passenger restraints required by subparagraphs (c)--(f) below and must comply with all other provisions of this paragraph (4).

(b) Children under four (4) years of age shall never be placed in the front seat of the vehicle.

(c) Children who weigh less than twenty pounds (20 lbs.) shall be placed to face the rear of the vehicle. Children who weigh twenty pounds (20 lbs.) or more shall be placed to face the front of the vehicle unless the special needs of a disabled child otherwise require the child to face the rear of the vehicle.

(d) Children who weigh less than forty pounds (40 lbs.) shall be restrained in a Federally-approved child restraint device in accordance with the child restraint device manufacturer’s instructions. The child restraint
device shall be secured to the vehicle in accordance with the child restraint device manufacturer’s instructions.

(e) Children Between Forty Pounds (40 lbs.) and Eighty Pounds (80 lbs.).

1. Children who weigh between forty pounds (40 lbs.) and eighty pounds (80 lbs.) may be restrained in a belt-positioning booster seat (BPBS) that has been secured in accordance with the vehicle and restraint manufacturers’ instructions. BPBS devices shall always be secured to the vehicle in accordance with the vehicle and the restraint device manufacturer’s instructions. If, however, a BPBS restraint device is not used, the child shall be restrained in both a lap belt and a shoulder belt if available in the vehicle. If a lap and shoulder belt restraint system is not available in the vehicle, the child shall be restrained by a lap belt.

2. Effective January 1, 2007, children who weigh between forty pounds (40 lbs.) and eighty pounds (80 lbs.) shall be restrained in a belt-positioning booster seat (BPBS) in accordance with the BPBS manufacturer’s instructions. BPBS devices shall always be secured to the vehicle in accordance with the vehicle and the restraint device manufacturer’s instructions.

(f) Children Weighing More Than Eighty (80 lbs.) or Who are Taller Than Four Feet Nine Inches (4'9").

1. Children who weigh more than eighty pounds (80 lbs.) or who are taller than four feet nine inches (4'9") may be restrained in an adult lap belt and shoulder belt that has been secured in accordance with the vehicle manufacturer’s instructions. If, however, an adult lap belt and shoulder belt is not used, the child shall be restrained by a lap belt.

2. Effective January 1, 2007, children who weigh more than eighty pounds (80 lbs.) or who are taller than four feet nine inches (4'9") shall be restrained in an adult lap belt and shoulder belt in accordance with the vehicle manufacturer’s instructions.

(g) Passenger air bags shall remain turned off unless an adult or a child fifteen (15) years of age or older is riding in the front passenger seat of the vehicle.

(h) No child shall ride on the floor of a vehicle and no child shall be placed with another child in the same restraint device.

(i) Notwithstanding the provisions of this paragraph (4), until January 1, 2007, children of school-age (in kindergarten or any grade level above) shall not be required to use child restraints when being transported in school buses classified in the “large” category under FMVSS.

(5) Supervision of Children During Transportation.

(a) An adult must be in the vehicle whenever a child is in the vehicle.

(b) Adult Monitor Requirements for Child Care Transportation.
1. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more children ages six (6) weeks through five (5) years of age, who are not in kindergarten, if the entire vehicle route exceeds forty-five (45) minutes.

2. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more non-ambulatory children (permanent or temporary) of any age.

3. On field trips off premises, the number of adults at the destination shall be double the requirements on the adult:child ratio charts in paragraph (2) of subchapter 1240-04-04-.03, Caregiver to Child Ratios and Supervision; provided, however, the adult monitor referenced in parts 1 and 2 of this subparagraph (b) may be used for purposes of this requirement.

(6) Limits on Time Children Are Transported/Transportation Waivers.

(a) Children shall not spend more than forty-five (45) minutes traveling one way; provided, however, this provision is not applicable for occasional field trips.

(b) If extended transportation beyond the limits in subparagraph (a) is necessary in special circumstances, or as may be required by geographic factors, an individualized plan shall be established and signed by the parent(s) and the child care agency and approved by the Department prior to providing such transportation.

(7) Except as otherwise exempted, the provisions of paragraphs (4)-(6) shall apply to all vehicles used for the transportation of children enrolled in a child care agency licensed or approved by the Department, including vehicles provided by a contractor of the agency or vehicles operated by any other provider of services under the direction or control of the child care agency.

Tenn. Comp. R. & Regs. 1240-04-.08

(1240-04-.08. FOOD.)

(1) Nutritional Needs.

(a) For children in the home at least four hours, one snack (defined as two of these four choices: fluid milk, meat or meat alternate; fruit, vegetable or full-strength juice; or whole grain or enriched bread) shall be provided, unless the four-hour period covers a normal meal hour, in which case a meal shall be provided.

(b) Snacks provided shall be nourishing and planned as a part of the day’s food allowances. Carbonated drinks, fruit-flavored drinks, imitation milk drinks, and candy shall not be served as snack foods. Powdered milks shall be used only in a cooked food product. (Real juice will be labeled “100% juice” or “full-strength juice”. Powdered milk does not meet the requirement.) (See Appendix D for suggested food pattern for snacks.)

(c) For children in the home five to 10 hours, one meal (defined as meat or meat alternate, vegetable and/or
Tennessee Rules and Regulations Currentness_1240. Department of Human Services_1240-04. Adult and Family Services Division_Chapter 1240-04-01. Standards for Group Child Care Homes (Refs & Annos)

(fruit, bread or bread product, and milk) and one or two snacks shall be provided, two snacks if the period is as much as seven hours. (See Appendix D for suggested meal patterns.)

(d) For those in the home longer than 10 hours, two meals and two snacks shall be furnished.

(e) Breakfast (defined as fruit, vegetable or full-strength juice; cereal or bread product; and milk) shall be offered to children who arrive before 7:00 a.m. and who have not had breakfast at home.

(f) Diets of infants and other special diets shall be prepared as prescribed by a physician.

(g) The week’s menus shall be planned and posted by the First day of each week and remain posted until the following week, so that parents can be aware of the food their children are receiving. These menus shall be followed, although reasonable substitutions are permissible if the substituted food contains the same nutrients. The change shall be documented in advance of the meal. (information on menu planning is available upon request.)

2) Meal Service

(a) Caregivers and children shall wash their hands before eating or prior to any preparation of food.

(b) High chairs and tables on which food is served shall be washed with soap and water prior to and after snacks and meals.

(c) Napkins and forks and/or spoons shall be provided for children who feed themselves.

(d) All formulas and food brought from home shall be labeled with the child’s name. Milk shall be placed immediately in the refrigerator. Previously opened baby food jars shall not be accepted by caregivers. All formulas remaining in bottles after feeding shall be discarded.

(e) When children are capable of using a high chair, they shall be allowed to do so and to experiment with food, with feeding themselves, and to eat with fingers or spoon.

(f) Bottles shall not be propped or given to children who are lying flat.

(g) Solid foods shall not be given in a bottle, or with infant feeders, to children of normal eating abilities.

(h) All infant’s feeding schedule shall be made and adapted to child’s need rather than on the hour.

(i) Weaning shall not be started immediately after enrollment, but after parents and caregivers have communicated to establish consistency in the weaning process and after a child has become familiar with a cup or glass.

Current through rules effective April 2014.
(j) Introduction of new foods to infants and toddlers shall be gradual, one at a time, over a five to seven-day period with parents' approval.

(k) The size of servings shall be adequate to meet children's needs. (Portion size depends on child's age. See Appendix D for chart of age/portion size.)

(l) Food, including dessert, shall not be forced on or withheld from a child.

(m) Floors under tables and high chairs on which food has been served shall be swept and/or vacuumed after each meal and mopped as needed.

(1) Family day care homes shall be inspected and approved annually for Fire Safety and Environmental Health by the Licensing Counselor. Requirements in Appendices E and F shall be met before a license can be issued.

(2) Physical facilities shall continue to meet all standards in Appendices E and F and any updated fire prevention and environmental standards which are applicable.

(3) The home shall have at least two exits directly to the outside.

(4) The home shall not be located in a building used for other purposes, which would be hazardous or would limit outdoor play.

(5) If the number of children (including "related") exceeds seven at one time, the living area of the home shall provide 30 square feet per child of usable play space.

(6) The areas where children play or are cared for shall be properly maintained. These areas shall be free of hazardous items or materials unless adequately protected by storage, inaccessibility, proper supervision, or other safety procedures. These areas shall present no conditions which are hazardous to children. All such areas shall be free of all animal wastes.

(7) When infants are in care, the diapering area shall be located as close to a handwashing lavatory as possible but not in the kitchen.

Current through rules effective April 2014.
(1) When children with disabilities are enrolled the home shall provide those children equal opportunity to participate in the same program activities as their peers.

(2) Adaptations to the environment shall be directed toward normalizing the lifestyle of the child with a disability by helping him/her become independent and develop self-help skills.

(3) Any efforts to provide specialized services (e.g., speech/hearing therapy, physical therapy, psychological evaluation, or services for mentally retarded), either directly or by referral, shall be conducted only with written permission by parent and documented in the child’s record. Any informational exchange regarding these services shall also be documented.

(4) The home shall have a written individualized evacuation plan, which has been approved by the Licensing Counselor and is practiced in every monthly fire drill, for every child enrolled who requires more assistance to evacuate the facility than other children of the same age or in the same group.


1240-04-04-.11. APPENDICES.

(1) The following Appendices referenced in the foregoing rules are incorporated in these rules by reference:

(a) Appendix A - I. Summary of Applicable Laws

II. Questions and Answers About Day Care Licensing

(b) Appendix B - Guidelines for TB Screening

(c) Appendix C - Contents of First Aid Kit

(d) Appendix D - Meal/Snack Patterns and Portion Sizes

(e) Appendix E - Environmental Standards for Family Child Care Homes

(f) Appendix F - Fire Safety Inspection Report

(2) Any conflict between summaries of the language of statutes or regulations in the Appendices and official statutes and regulations will be resolved by reference to the language of the official statutes or regulations.

Tenn. Comp. R. & Regs. 1240-04-04-.11 App. A

Current through rules effective April 2014.
APPENDIX A

I. Summary Of Applicable Laws.

A. Child Welfare Agencies (TCA §71-3-501 et seq.) (A complete copy of the licensing law is available upon request).

1. Specifies the types of agencies that DHS has a mandate to license. Licensing of day care (less than 24-hour care) begins with five children. (Care for one to four children is exempt.)

2. Provides for development of standards, based on certain criteria by a 16 member “Standards Committee” appointed by the Commissioner. Standards are to be reviewed (and revised, if needed) every five years.

3. Requires DHS to provide applicants or licensees with assistance in meeting standards.

4. Requires annual application for a license and an application processing fee.

5. Upon receiving fire safety and environmental sanitation approval, provides that DHS will issue a 90-day conditional license if no apparent hazards to the children in care are present.

6. Provides for denial, suspension, or revocation of license and a waiting period ranging from 60 days to one year prior to reapplication.

7. Provides for appeals and hearings before the Board of Review, which includes representatives from the Departments of Health, Education, of the “Advisory Board” of DHS, from the appropriate Standards Committee, and three at-large members selected by the others. Appeals from the Board’s decision may be made to Chancery Court.

8. Imposes a misdemeanor penalty of imprisonment for six months and a fine of $500 or both for each offense (day) of operating without a license.

9. Requires public agencies to meet the same standards as other child welfare agencies and a method of reporting to the public any uncorrected deficiencies.

10. Requires DHS to regularly inspect agencies without prior notice and grants the Department access to facilities and records in order to make an evaluation of the “kind and quality of work done” and to make recommendations regarding licensure.

11. Requires DHS to investigate reports of noncompliance.

Current through rules effective April 2014.
12. Allows DHS to impose civil penalty ($25 - $150) for substantial noncompliance and probation for continued noncompliance.

13. Contains specified and defined exemptions for Parents’ Day Out programs, Kindergartens, and “Drop-in” programs. Also provides a waiver of adult to child ratios and group size requirements for certain Montessori schools.

14. Requires screening for criminal violations of persons applying to work with children through the registry maintained by the Tennessee Bureau of Investigation (TBI).

15. Allows DHS to investigate all reports of abuse, neglect, or sexual abuse (even in exempt agencies) and enables DHS to revoke the license of a licensed agency and to enjoin an unlicensed person or agency from continuing to provide child care where abuse of children occurs.

B. Access to Public Records (TCA §10-7-503 and 10-7-504).

Requires public bodies to provide any citizen of Tennessee access to public records except for specified confidential records (e.g., medical records, TBI investigative records, students’ records). DHS’ records on child welfare agencies are public records except as they may contain information obtained in the course of child abuse or neglect investigations.

C. Child Protective Services (TCA §§37-1-401 et seq. and 37-1-601 et seq.).

1. Requires any individual or organization (such as Day care agency, Hospital, or School) having knowledge of suspected child abuse or neglect to report it to a juvenile judge, the Department of Human Services, or a Law Enforcement Official. (Look in your telephone book under “Child Abuse” or call the county DHS office or local law enforcement.)

2. Requires the identity of a reporting person to be kept confidential, subject to disclosure only by consent of the person or by judicial process. Provides immunity from civil or criminal liability if reports are made in good faith.

3. Gives DHS authority and responsibility to investigate reports of abuse or neglect.

4. Requires that all written records and information regarding investigations be confidential. Release of information is permissible to certain specified persons and to those having responsibility for administration of the law. Persons found not guilty of severe child abuse or child sexual abuse shall have their names expunged from the TBI’s abuse registry.

5. Charges DHS with the responsibility of conducting a continuing publicity and education program to encourage reporting and to strengthen and improve child sexual abuse detection, prevention, and treatment efforts.

Current through rules effective April 2014.
D. Federal Funding.

Section 504 of the Rehabilitation Act of 1973 and Title VI of the Civil Rights Act of 1964 require agencies receiving federal funding to employ nondiscriminatory policies and practices. Persons receiving federal funding such as reimbursement from the USDA Child/Adult Care Food Program, DHS vendor or Transitional Child Care payments, Social Services Block Grants (SSBG), Dependent Care Grant funds for school-age child care, etc.; and persons receiving federal support in the form of space, staff, services, equipment, etc., are required to comply with the following:

1. Title VI of the Civil Rights Act of 1964 by ensuring that no person (child, parent, or employee) in your agency “shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance”; and by employing nondiscriminatory policies and practices and advertising such.

2. Section 504 of the Rehabilitation Act of 1973 by ensuring that no otherwise qualified handicapped person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any program activity solely on the basis of a handicap (applies to children, parents, and employees); and by making reasonable accommodations to serve or hire an otherwise qualified individual with a handicapping condition.

E. Child Passenger Protection and Safety Belt Use (Transportation) (TCA §55-9-601 et seq.).

1. Requires any person transporting a child under the age of four years in a motor vehicle to provide for children’s protection by providing and properly using a federally approved child restraint system (manufactured after January 1, 1981). Violation is subject to a $50 fine or 30 days in jail or both.

2. Specifies that no one is to operate a motor vehicle unless all persons four and older in the front seat are properly restrained by a safety belt.

3. Imposes a fine of $50 or 30 days in jail or both for each violation after the first; however, the violator can be cited or arrested only after being cited or arrested for another violation of law.

4. TCA §§55-50-102(11) and 55-50-102(12)(B) requires the driver of a vehicle designed to carry 15 or more passengers (including the driver) to have a commercial driver’s license.

F. Administrative Rules and Procedures (TCA §4-5-301 et seq. and Chapter 1240-5-11 et seq.).

1. Provides for an administrative hearing of any contested cases (i.e., on denial or revocation of licenses or on notice of intent to put an agency on probation) after proper notice which includes references to particular statutes and rules involved.

2. Requires that hearings before the members of the Board of Review to be conducted by the administrative judge or a hearing officer, who rules on admissibility of evidence and other matters and otherwise ensures that proceedings are properly carried out.

Current through rules effective April 2014.
3. Allows the contesting licensee to be represented (at licensee’s own expense) by counsel.

4. Allows the judge or hearing officer at his/her discretion or upon request of licensee or the Department of Human Services to schedule a prehearing conference in order to simplify or expedite the disposition of the appeal action.

5. Requires that the hearing be open to the public.

6. Requires the final order be entered by the Board of Review. The final order shall include conclusions of law, factual findings, prescribed remedy, and procedures and time limits for seeking judicial review.

7. Provides that while an application for a license is pending, an existing license does not expire until disposition of the application has been finally determined, unless the license must be summarily suspended pending completion of the proceedings because the Department determines that “public health, safety, or welfare imperatively requires” emergency action, and notifies licensee of that finding “pending proceedings for revocation or other action”.

II. Questions And Answers About Day Care Licensing.

A. How does a person get information about opening a child care agency?

The local county office of the Tennessee Department of Human Services will furnish information; a licensing representative will provide assistance free of charge to an individual or a group that is planning to provide child care.

B. How many children am I allowed to care for?

In Tennessee, a person without a license may care for no more than four children. To care for five to seven children, in addition to “related” children, you must be licensed as a “family child care home” operator. To have eight - 12 children in care, you must be licensed as a “group child care home” operator. (Under certain conditions, a group day care home may have up to 15 children.)

C. How is a license obtained?

1. After a completed application and the required fee are received, arrangements will be made for a representative to visit your facility and evaluate the day care operation and/or facility in accordance with the required standards in this booklet.

2. Before a day care home can be licensed, it must pass fire safety and environmental sanitation inspections. The licensing representative will explain the procedure for getting inspected.

D. What types of licenses are issued?

Current through rules effective April 2014.
1. An “annual license” is granted when compliance with licensure requirements is confirmed by the Department.

2. A “conditional license” is granted to a new agency for 90 days when it does not meet all the required standards, but there is evidence that an effort is being made to comply with the requirements and it has first met fire safety and environmental sanitation approval.

E. Who determines whether a license is issued?

The Commissioner has ultimate responsibility for issuance or denial, based upon an evaluation and recommendation by a licensing representative of the Department.

F. Is the license permanent?

No, it is issued for up to one year. Prior to its expiration, an evaluation is made to determine whether compliance with requirements is being maintained and reissuance should be recommended.

G. Is there a fee?

Yes, the fee is payable upon application and is nonrefundable. The fee for day care homes is $5 for a family day care home and $10 for a group day care home.

H. Where is the license kept?

It must be posted in a conspicuous place in the day care home during business hours.

I. Are licenses transferable?

No. The license applies only to the agency, organization, and person(s) to whom it is issued. It also applies only to the building approved.

J. Does the same license for “day care” cover (1) nighttime care, (2) “drop-in” children, and (3) sick children?

1. Yes. An agency that provides less than 24-hour care to children during nighttime hours receives the same license as a child care agency operating during daytime hours, and one license covers both programs in the same agency. An agency cannot provide continuous 24-hour care for two or more children without a residential license. If not licensed for day care, a residential license is needed for more than one child. Ask a licensing counselor about the procedure for obtaining a residential license.

Current through rules effective April 2014.
2. “Drop-in” children are counted in the ratio and group and can be cared for only if required records are on file before they are cared for.

3. The day care home license also includes care of mildly ill children. Only mildly ill children (i.e., not “contagious”) should be cared for in a day care home and only then if staffing is adequate. Mild illnesses are generally those in a recuperative stage (e.g., getting over Mumps or Influenza).

K. Who enforces licensure requirements for a child care system?

If homes are approved as an extension of a child welfare agency’s license, the central operator (the licensee) is responsible for monitoring compliance. The Department of Human Services monitors the agency’s compliance as well as licensed homes within a system.

L. What is the procedure when a license is revoked, denied, or suspended?

The Department may deny, suspend, or revoke a license at any time by giving the owner, operator, or board a written notice by listing the specific reason or reasons for the action. Specified time periods are provided in the law. Any conduct or condition which might immediately jeopardize the safety of children, shall be cause for immediate suspension of the license, pending the outcome of revocation procedures.

M. How can an operator or applicant appeal such action?

The licensing law provides for a board of review. If a license is denied or revoked by the Department, a request may be made for a hearing before the review board. An appeal of the decision from the review board may be judicially reviewed. The periods of time allowed for the appeals are set out in the law.

N. Where do I call to file a complaint or get a license?

1. If you have a question about these standards, or if you want to report an unlicensed facility or a facility that is violating licensing requirements, call the DHS county office. It is listed in the telephone directory under Tennessee State Government - Human Services Department. Someone there will refer you to the licensing unit in your area.

If you want to open a child care facility, call that office before you do anything. You cannot care for a group of five or more children without a license.

2. If you have a question or concern about these standards or the licensing procedure, call or write:

   Day Care Licensing Coordinator

   Tennessee Department of Human Services

Current through rules effective April 2014.
APPENDIX B

RECOMMENDATIONS FOR TUBERCULOSIS SCREENING OF PROGRAMS UNDER THE SUPERVISION OF THE DEPARTMENT OF HUMAN SERVICES [FN1]

Programs that provide care for periods less than 24 hours per day.

A. Employees.

Employees should be screened for tuberculosis within 90 days prior to but no later than two weeks after employment. The screening examination should include a Tuberculin test [FN2] and if it is positive, a chest X-ray and, if necessary, other specific tests. Prospective or current employees who are known to have a positive tuberculin reaction or who refuse to have a Tuberculin skin test shall receive a chest X-ray to rule out infectious Tuberculosis. If infectious Tuberculosis is ruled out, no further screening is necessary during their employment unless persistent pulmonary symptoms develop or there is contact with Tuberculosis.

B. Children.

1. Foreign-born.

All foreign-born children should present evidence of a Tuberculin skin test [FN3] performed in the United States. This test performed in the United States may have been done at any time after 12 months of age. Any child with a positive Tuberculin skin test should be referred to a physician for evaluation. After the initial evaluation, future periodic screening is not required unless the child develops persistent pulmonary symptoms or there is contact with Tuberculosis.

2. Native-born.

Special screening of children born in the United States is not required unless there is history of contact to Tuberculosis or there are symptoms and/or physical findings suggestive of Tuberculosis.

If the Tuberculin test is negative, no future screening is required unless persistent pulmonary symptoms develop or there is contact with Tuberculosis. If the Tuberculin skin test is positive, the child should be referred to a physician for evaluation.

Current through rules effective April 2014.
APPENDIX C

INVENTORY FOR THE FIRST AID KIT

Every child care setting should have a first aid kit stocked with items on the list below. You can buy the supplies for the first aid kit at drug stores or at hospital or medical supply stores.

Each first aid kit should be large enough to hold all the necessary supplies for first aid in the child care setting. Use a container that will close tightly. It should be stored where adults can reach it easily, but it must be stored out of reach of children. You should arrange the contents so you can reach items easily without emptying the kit. You should be sure that the contents are wrapped tightly and are sanitary. You should restock the kit after each use.

A first aid kit should contain the following items:

- First aid cards
- Commercial cold pack or plastic bag for ice cubes
- Adhesive strip bandages (1/2″, 3/4″, 1″ strips)
- Clean cloth
- Gauze bandages (4″x4″, nonstick, sterile)
- Soap
- Rolled flexible or stretch gauze
- Small plastic cup
- Bandage tape
- Sealed packages of cleansing wipes
- Nonstick, sterile pads (different sizes)
- Syrup of ipecac (1-ounce bottle)
- Triangular bandages
- Special items for children with specific health problems (such as bee sting kit or an inhaler for a child with asthma)
- Small splints
- Eye dressing or pad
- Scissors
- Emergency Telephone Guide
- Tweezers
- Emergency contact information (phone numbers of the children’s parents)

Current through rules effective April 2014.
Safety pins

Thermometer

Change for pay phone

Flashlight with fresh batteries

Pen or pencil and note pad

Disposable latex gloves

Three-ounce rubber bulb syringe (to rinse out eyes, wounds, etc.)

a1. Can be purchased from American Red Cross; give first aid instructions.

This page may be duplicated by individuals and entities for noncommercial purposes.

“Appendix C”

American Red Cross Child Care Course

Infant and Child First Aid

APPENDIX D

MEAL PATTERN/PORTION SIZE REQUIREMENTS

If needed, the caregiver should ask for help in planning meals from a nutritionist or dietitian. For homes on the Child and Adult Care Food Program (CACFP), the DHS staff nutritionist is available. The Department of Health, local colleges, and hospitals are also possible resources.

The minimum amounts of food components to be served are as follows

BREAKFAST

Current through rules effective April 2014.
<table>
<thead>
<tr>
<th>Food Components</th>
<th>Age 1 and 2</th>
<th>Age 3-5</th>
<th>Age 6-12</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Milk</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>milk, fluid</td>
<td>1/2 cup</td>
<td>3/4 cup</td>
<td>1 cup</td>
</tr>
<tr>
<td><strong>Vegetables and Fruits</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vegetable(s) and/or fruit(s)</td>
<td>1/4 cup</td>
<td>1/2 cup</td>
<td>1/2 cup</td>
</tr>
<tr>
<td>or full-strength vegetable or fruit juice</td>
<td>1/4 cup</td>
<td>1/2 cup</td>
<td>1/2 cup</td>
</tr>
<tr>
<td>or an equivalent quantity or any combination of vegetable(s), fruit(s) and juice</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Bread and Bread Alternates</strong></td>
<td>1/2 slice</td>
<td>1/2 slice</td>
<td>1 slice</td>
</tr>
<tr>
<td>bread</td>
<td>1/2 slice</td>
<td>1/2 slice</td>
<td>1 slice</td>
</tr>
<tr>
<td>or cornbread, biscuits, rolls, muffins, etc.</td>
<td>1/2 serving</td>
<td>1/2</td>
<td>1 serving</td>
</tr>
<tr>
<td>or cold dry cereal</td>
<td>1/4 cup or serving</td>
<td>3/4 cup or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1/3 oz.</td>
<td>1/3 cup or</td>
<td>1 oz.</td>
</tr>
<tr>
<td>or cooked cereal</td>
<td>1/4 cup</td>
<td>1/2 oz</td>
<td>1/2 cup</td>
</tr>
<tr>
<td>or cooked pasta or noodle products</td>
<td>1/4 cup</td>
<td>1/4 cup</td>
<td>1/2 cup</td>
</tr>
</tbody>
</table>
1. Children age 12 and up may be served adult-sized portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities for children age 6 to 12.

2. A cup means a standard 8 ounce measuring cup.

3. Bread, pasta or noodle products, and cereal grains shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain or enriched or fortified.

4. Either volume (cup) or weight (oz.), whichever is less.

**LUNCH OR SUPPER**

<table>
<thead>
<tr>
<th>Food Component</th>
<th>Age 1 and 2</th>
<th>Age 3-5</th>
<th>Age 6-12</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Milk</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>milk, fluid</td>
<td>1/2 cup</td>
<td>3/4 cup</td>
<td>1 cup</td>
</tr>
<tr>
<td><strong>Vegetables and Fruits</strong></td>
<td>1/4 cup</td>
<td>1/2 cup</td>
<td>3/4 cup</td>
</tr>
<tr>
<td>Vegetable(s) and/or fruit(s)</td>
<td>total</td>
<td>total</td>
<td>total</td>
</tr>
</tbody>
</table>

Current through rules effective April 2014.
### Bread and Bread Alternates

<table>
<thead>
<tr>
<th></th>
<th>1/2 slice</th>
<th>1/2 slice</th>
<th>1 slice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bread</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>or cornbread, biscuits, rolls, muffins, etc.</td>
<td>1/2 serving</td>
<td>1/2 serving</td>
<td>1 serving</td>
</tr>
<tr>
<td>or cooked pasta or noodle products</td>
<td>1/4 cup</td>
<td>1/4 cup</td>
<td>1/2 cup</td>
</tr>
<tr>
<td>or cooked cereal grains</td>
<td>1/4 cup</td>
<td>1/4 cup</td>
<td>1/2 cup</td>
</tr>
<tr>
<td>or an equivalent quantity of any combination of bread/bread alternate</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Meat and Meat Alternates

<table>
<thead>
<tr>
<th></th>
<th>1 oz.</th>
<th>1-1/2 oz.</th>
<th>2 oz.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lean meat or poultry or fish</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>or cheese</td>
<td>1 oz.</td>
<td>1-1/2 oz.</td>
<td>2 oz.</td>
</tr>
<tr>
<td>or eggs</td>
<td>1 egg</td>
<td>1 egg</td>
<td>1 egg</td>
</tr>
<tr>
<td>or cooked dry beans or peas</td>
<td>1/4 cup</td>
<td>3/8 cup</td>
<td>1/2 cup</td>
</tr>
<tr>
<td>or peanut butter, or other nut or seed butters</td>
<td>2 Tbsp.</td>
<td>3 Tbsp.</td>
<td>4 Tbsp.</td>
</tr>
<tr>
<td>or peanuts or soy nuts</td>
<td>½ oz. = 50%</td>
<td>3/4 oz. = 50%</td>
<td>1 oz = 50%</td>
</tr>
<tr>
<td>or an equivalent quantity of any combination of meat/meat alternate</td>
<td></td>
<td></td>
<td>50%</td>
</tr>
</tbody>
</table>

(See footnotes from breakfast pattern.)

Current through rules effective April 2014.
1. Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full strength vegetable or fruit juice may be counted to meet not more than 1/2 of this requirement.

2. Edible portion as served.

3. No more than 50% of the requirement shall be met with nuts or seeds. Nuts or seeds shall be combined with another meat/meat alternate to fulfill the requirement. For purposes of determining combinations, (1) ounce of nuts or seeds is equal to (1) ounce of cooked lean meat, poultry, or fish.

**SUPPLEMENTAL FOOD (SNACKS)**

Select two of the following four components. Juice may not be served when milk is served as the only other component. Milk and yogurt are too similar in nutritional value to be used together in the same supplement.

<table>
<thead>
<tr>
<th>Food Components</th>
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<td>3/4 cup</td>
</tr>
<tr>
<td>or an equivalent quantity or any combination</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Current through rules effective April 2014.
### Bread and Bread Alternates

<table>
<thead>
<tr>
<th>Item</th>
<th>Quantity 1</th>
<th>Quantity 2</th>
<th>Quantity 3</th>
</tr>
</thead>
<tbody>
<tr>
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<td>1/2 slice</td>
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</tr>
<tr>
<td>or cold dry cereal</td>
<td>1/4 cup or</td>
<td>1/3 cup or</td>
<td>3/4 cup or</td>
</tr>
<tr>
<td>or cooked cereal</td>
<td>1/3 oz.</td>
<td>1/2 oz.</td>
<td>1 oz.</td>
</tr>
<tr>
<td>or cooked pasta or noodle products</td>
<td>1/4 cup</td>
<td>1/4 cup</td>
<td>1/2 cup</td>
</tr>
<tr>
<td>or an equivalent quantity of any combination</td>
<td>1/4 cup</td>
<td>1/4 cup</td>
<td>1/2 cup</td>
</tr>
<tr>
<td>of bread/bread alternate</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Meat and Meat Alternates

<table>
<thead>
<tr>
<th>Item</th>
<th>Quantity 1</th>
<th>Quantity 2</th>
<th>Quantity 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>lean meat or poultry or fish</td>
<td>1/2 oz.</td>
<td>1/2 oz.</td>
<td>1 oz.</td>
</tr>
<tr>
<td>or cheese</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>or eggs</td>
<td>1/2 egg</td>
<td>1/2 egg</td>
<td>1/2 egg</td>
</tr>
<tr>
<td>or cooked dry beans or peas</td>
<td>1/8 cup</td>
<td>1/8 cup</td>
<td>1/4 cup</td>
</tr>
<tr>
<td>or peanut butter, or other nut or seed butters</td>
<td>1 Tbsp.</td>
<td>1 Tbsp.</td>
<td>1 Tbsp.</td>
</tr>
<tr>
<td>or peanuts or soy nuts</td>
<td>1/2 oz.</td>
<td>1/2 oz.</td>
<td>1 oz.</td>
</tr>
<tr>
<td>or yogurt, plain, or sweetened and flavored</td>
<td>2 oz. or 1/4</td>
<td>2 oz. or 1/4</td>
<td>4 oz. or 1/2</td>
</tr>
<tr>
<td>or an equivalent quantity of any</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>combination</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Current through rules effective April 2014.
of meat/meat alternate

APPENDIX E

ENVIRONMENTAL STANDARDS FOR FAMILY CHILD CARE HOMES

I. Building.

The building foundation, roof, and walls shall be free of visible cracks and unsealed openings. Gutters and downspouts shall be kept in good repair. Visible cracks in walls and around window frames and doors shall be sealed. Buildings shall be painted inside and outside when necessary.

All doors and windows shall be kept clean and in good repair (this includes screens when used). Window space shall be equal to at least 10 percent of the floor area except in rooms which are air-conditioned and which have artificial light amounting to at least 25 foot candles. Windows shall be openable unless the room is air-conditioned. All outside doors and windows shall be screened unless building is air-conditioned.

II. Lighting.

Lighting shall be adequate for normal activities that would be expected to be conducted in a Family Child Care Home. Fixtures and window blinds shall be clean, operative and properly adjusted.

III. Heating and Ventilation.

A temperature at child height not lower than 68° nor higher than 75° shall be maintained. Stoves, fireplaces, hot radiators, steam and hot water pipes or other objects and electrical outlets in rooms used by the children shall be adequately protected by screens, guards, insulation, or suitable measures that will protect children from coming in contact with them. All heating, ventilation, and air conditioner units shall be kept clean.

Current through rules effective April 2014.
IV. **Toilets.**

There shall be at least one flush toilet and one handwashing lavatory. Such facilities shall be approved and in good repair, clean and conveniently located. Toilet tissue shall be provided at each commode.

A tightly covered container with plastic liner shall be used for diaper disposal and stored inaccessible to children. This container shall be emptied by closing the liner and disposing of it into an outside garbage receptacle.

V. **Handwashing.**

Soap and individual sanitary towels shall be available wherever a handwashing lavatory is provided. Proper adult supervision shall be exercised for use of toilet and handwashing facilities.

There shall be sufficient hot water to supply the needs of a Family Child Care Home.

Personnel shall exercise good handwashing practices following diaper changes, the assistance of children in toilet use, and personal toileting.

VI. **Bedding.**

Where provisions are made for staying overnight, each occupant shall be provided an individual bed with acceptable mattress and waterproof cover, springs, clean linen, and clean cover. Where children are kept at least six hours but not overnight, individual cots or other approved bedding shall be provided and kept clean and in good repair. Spacing shall be adequate to promote freedom of movement, approximately two feet between cots and mats.

VII. **Sewage Disposal.**

Connection to a public sewage disposal system shall be made where possible. The use of a private sewage disposal system shall have the approval of the local health department and it shall be operating satisfactorily.

Plumbing shall be installed and maintained in such a manner as to prevent the possibility of cross-connection or back siphonage. There shall be no sewage leaks.

VIII. **Water Supply.**

The water supply shall be adequate, of a safe, sanitary quality, and from an approved public or private water-supply system which is constructed, protected, operated, and maintained in conformance with applicable State and local laws, ordinances, and regulations. Water from a public supply shall be utilized where possible.

Current through rules effective April 2014.
IX. Drinking Facilities.

An approved drinking fountain or individual paper cups shall be provided in rooms or adjacent to rooms regularly occupied by the children. Fountains shall be clean and in good repair.

X. Garbage and Refuse.

All garbage and rubbish shall be kept in leakproof, nonabsorbent containers which shall be kept covered with tight fitting lids. Refuse shall be picked up at least twice a week and disposed of in such a manner as to prevent a nuisance. All garbage containers and the immediate area shall be kept clean. Containers shall be kept in good repair. Garbage shall be removed from the building daily.

XI. Insect and Rodent Control.

All parts of the building shall be reasonably free from flies and other insects. Approved screens in good repair shall be provided for all doors and windows unless the building is air-conditioned and then such doors and windows shall be kept closed during fly seasons. The facility shall be free of rodents. Proper supervision and caution shall be exercised according to label instructions when applying approved insecticides and rodenticides.

XII. Safety.

Only such poisonous and toxic materials as are required to maintain sanitary conditions and for sanitation purposes shall be used and stored in an approved manner. All insecticides, medicines, polishes, disinfectants, and cleaning compounds shall be stored in an area separate from food and paper storage and shall be inaccessible to children.

Sturdy safety rails shall be provided for both sides of all steps or ramps. When bathtubs are used by children, safety strips or mats shall be provided. There shall be no broken mirrors, windows or other glass objects in any part of the building. All furniture and the building shall be of durable construction, free of sharp projecting corners or surfaces and kept clean and in good repair. Glass in hazardous locations shall be suitably shielded or safety glass used in these sections.

Grounds shall be free of excessive growth of grass or weeds and hazards that are likely to cause falls. There shall be no unprotected, abandoned well, cistern, refrigerator box, or similar hazards.

Fencing or other acceptable barriers shall be provided for hazardous drainage ditches, cliffs, traffic, or like hazards. The grounds shall have adequate drainage.

Swimming pools shall comply with state law and regulations for public pools. There shall be adequate supervision by an adult who can swim. Pools shall be enclosed by a fence four feet in height.

XIII. Food.

Current through rules effective April 2014.
Facilities located in counties or municipalities which have an adopted food service code, ordinance, or regulation shall comply with such code, ordinance, or regulation, where applicable; otherwise the following standards shall be met for food sanitation:

1. All food shall be from sources approved or considered satisfactory. The use of hermetically sealed containers (home canned food) is prohibited.

2. All milk including dry milk powder shall be from a Grade A pasteurized source.

3. Raw fruits and vegetables shall be washed before use.

4. Stuffing, poultry, and pork products shall be thoroughly cooked before being served.

5. Milk and food used in family style feeding shall not be placed on eating table longer than 15 minutes prior to beginning of meal. All food left over from the table in family-style feeding shall be discarded.

6. Potentially hazardous foods requiring cold storage shall be maintained at 45°F or below, and accurate thermometers shall be kept in the refrigerators. Potentially hazardous food requiring hot storage shall be at an internal temperature of 140°F or above. Frozen foods shall be maintained at a temperature of 0°F or below. Thermometers shall be placed in all freezers.

7. Milk and other potentially hazardous foods shall be kept in the proper temperature ranges and be protected properly, except during the time of preparation.

8. All dry food supplies shall be stored in closed containers. These foods shall be stored in a manner to prevent possible contamination and to allow for proper cleaning of the storage area.

9. All food shall be protected from contamination during storage, preparation, transportation, and serving.

10. No poisonous or toxic materials except those required to maintain sanitary conditions and for sanitization purposes may be used or stored in a food-service area of a facility.

11. Poisonous and toxic materials shall be identified, stored, and used only in such a manner and under such conditions as will not contaminate food or constitute a hazard to the population of a facility.

12. All equipment and utensils shall be so designed and constructed of such material and workmanship as to be smooth, easily cleanable, and durable, and shall be in good repair.

13. The food-contact surfaces or equipment and utensils shall be easily accessible for cleaning, nontoxic, corrosion resistant, and relatively nonabsorbent; exceptions may be made to the above materials requirements for equipment such as cutting boards, blocks, and bakers’ tables.

Current through rules effective April 2014.
14. All equipment shall be installed and maintained to facilitate the cleaning thereof and of all adjacent areas.

15. Equipment in use at the time of adoption of this standard that does not meet fully the above requirements may be continued in use if it is in good repair, capable of being maintained in a sanitary condition, and the food-contact surfaces are nontoxic.

16. All eating and drinking utensils shall be thoroughly cleaned and sanitized after each use with the exception of single-service utensils which shall be discarded following use.

17. Single-service articles shall be made from nontoxic materials and shall be stored, handled, and dispensed in a sanitary manner.

18. All utensils and food-contact surfaces or equipment used in the preparation, transportation, service, display, or storage of potentially hazardous food shall be thoroughly cleaned and sanitized prior to such use.

19. Cooking surfaces of equipment shall be cleaned at least once a day.

20. All kitchenware and food-contact surfaces of equipment, exclusive of cooking surfaces of equipment, used in the preparation or serving of food or drink, and all food-storage utensils, shall be thoroughly cleaned after each use.

21. Nonfood contact surfaces of equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition.

22. After cleaning and until use, all food-contact surfaces of equipment and utensils shall be stored and handled as to be protected from contamination.

23. In facilities defined by the Department of Human Services as existing, a two-compartment sink can be used for washing and rinsing utensils, provided an additional container or sink is used for sanitation of the utensils.

Domestic type dishwashing machines are acceptable provided the temperature at the utensil surface is 160°F after the end of one complete cycle. If 160°F is not obtained at the end of one complete cycle, an additional sanitizing rinse for utensils shall be provided in a separate container or sink.

Facilities which do not have adequate and effective facilities for cleaning and sanitizing utensils shall use single-service articles.

XIV. Housekeeping.

All portions of the building shall be maintained in a clean condition. All rooms shall be maintained in an orderly manner. Grounds shall be kept clean.

Current through rules effective April 2014.
APPENDIX F

TENNESSEE DEPARTMENT OF HUMAN SERVICES FIRE SAFETY INSPECTION REPORT

FAMILY CHILD CARE HOMES INSPECTED BY THE DEPARTMENT OF HUMAN SERVICES

Name of facility: ________________________________________________________________

Street address: ___________________________ Telephone number: ______

City: ___________________________ State: ______ Zip code: ______

Age range of children: ___________________________

If this facility does not meet the State Building Code Requirements for a new building, all of the following questions must be answered “Yes”.

(01) Is wood frame construction restricted to two stories in height? ________________ Yes ________________ No (01)

(02) Are children housed only on the first floor level? ____________________________ Yes ________________ No (02)

(03) Does each room used for child care purposes have access to two outside exits? (One exit shall be through a window unless the room has a door directly to the outside) ________________ Yes ________________ No (03)

(04) Is every closet door latch such that children can open the door from the inside? ________________ Yes ________________ No (04)

(05) If this building is used for purposes not under the control of the operator, are all rooms and spaces used for child care purposes separated from the rest of the rooms by one-hour fire- ________________ Yes ________________ No (05)

Current through rules effective April 2014.
Tennessee Rules and Regulations Currentness _1240. Department of Human Services _1240-04. Adult and Family Services Division _Chapter 1240-04-01. Standards for Group Child Care Homes (Refs & Annos)

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does this facility have at least one unannounced fire drill monthly?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Are all employees informed of their duties during a fire drill?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Does the facility have one UL smoke detector for each room occupied by children?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Does the facility have an approved A-B-C rated extinguisher near the kitchen? (at least 2-1/2 lb. rated)</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Do electrical outlets within children’s reach have protective coverings?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Are all approaches to exits kept continuously free of all obstructions?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Is the building free of all unvented fuel-burning heaters?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Are all fuel-burning heaters, fireplaces, wall heaters, and portable space heaters provided with a protective screen attached securely to substantial supports?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Are all stairways, hallways, and other means of exit kept adequately lighted at all times when the building is occupied?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Does the space used for child care purposes have at least one window in each room which will raise up or swing out for emergency exit?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>If space is partially below grade on all four sides, is there an exit with a maximum of three steps or less leading directly to the outside?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Does the hot water heater have a safety relief valve installed?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Are combustible materials, gasoline, or flammable liquids (paint, thinner, oil, other chemicals, etc.) properly stored outside of the building occupied by children?</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

Current through rules effective April 2014.
(19) Does visual inspection reveal the absence of electrical hazards (overloaded electrical panel/master junction box), excessive extension cords or frayed wiring? □ Yes □ No

(20) Does every bathroom door lock permit opening of the locked door from the outside? □ Yes □ No

On this date, I found this facility to be reasonably fire safe. (Check No if Item 1, 12, or 16 above is checked No.) □ Yes □ No

Referred to local inspector □ Yes □ No

__________________________________________________________________________

Date Counselor

Received by: ____________________________ Date: ________________

NOTE: In areas where the local Fire Department or Human Services official has responsibility for fire safety inspections, the appropriate person shall complete this form. (Human Services officials inspecting only those facilities that have seven children or less shall use this form.)

This form applies only to one- and two-family houses, garden apartments, or condominiums when each unit has access directly to the outside. Family Child Care Homes located in other types of dwelling shall meet the additional requirements listed in Family Child Care Home Standards.

[FN1] Tuberculosis screening is not recommended for programs providing care for less than two weeks.

[FN2] The preferred method is the Mantoux technique using 5 TU PPD.

[FN3] Ibid.
These rules shall apply to all child care agencies licensed by the Department of Human Services pursuant to TCA §§ 71-3-501 et seq. and to all proceedings held before the Child Care Agency Board of Review established pursuant to §§ 71-3-501 et seq. Any conflict between these rules and those governing specific classes of child care agencies shall be resolved by reference to these rules.

These rules establish procedures for the application and issuance of licenses for child care agencies; the placement on probation of a child care agency by the Department of Human Services; the imposition of a civil penalty by the Department of Human Services against a licensee of a child care agency, the summary suspension of licenses of child care agencies and the denial, revocation, or restriction of licenses by the Department of licenses of child care agencies licensed by the Department of Human Services pursuant to TCA §§ 71-3-501 et seq.

All persons or entities operating a child-care center, a family-child care home, a group child care home, a drop-in center as defined by TCA § 71-3-501 and the rules of the Department of Human Services must be licensed by the Department as provided by TCA 71-3-501 et seq. and the rules of the Department unless otherwise exempted by TCA § 71-3-503 and the rules of the Department.

Tenn. Comp. R. & Regs. 1240-04-05-.02
1240-04-05-.02. DEFINITIONS.

(1) Applicant-The person or entity seeking an initial annual license or the issuance or renewal of any annual or extended license from the Department of Human Services.

(2) Application-The form for, and the process of, applying for a license from the Department of Human Services.

(3) Application for Renewal-Application for a new license during the existence of a currently valid license.

(4) Child care agency -The person or entity providing child care as defined by the licensing law in TCA § 71-3-501 et seq. and the rules of the Department of Human Services.

(5) Child Care Agency Board of Review, Board of Review or Board-The entity established by TCA §§ 71-3-510 and 37-5-515 to hear the appeals of the denial, revocation, or the restriction or limitation, other than summary suspensions, of licenses for child care agencies issued by the Departments of Children’s Services and Human Services, and which adjudicates civil penalties imposed by the Department of Human Services against a child care agency under its jurisdiction.

(6) Civil Penalty-A financial sanction imposed by the Department against a child care agency that has violated a licensing regulation.

(7) Commissioner-Executive head of the Tennessee Department of Human Services.

Current through rules effective April 2014.
(8) Denial-The decision of the Department not to issue or renew a license.

(9) Department-The Tennessee Department of Human Services

(10) Extended license-A license issued for two (2) or three (3) years rather than annually. It is issued following completion of at least one (1) year as a licensee and is issued for two (2) or three (3) years. It is based upon the Department’s determination that a child care agency has demonstrated that its methods of child care and its adherence to licensing laws and regulations are clearly appropriate to justify an extended licensing period.

(11) Hearing Official-The administrative law judge or hearing officer assigned to conduct summary suspension hearings or for Child Care Agency Board of Review hearings as may be permitted by law.

(12) Law-The statutory or regulatory provisions affecting the operation of a child care agency.

(13) License-A permit issued by the Department to a child care agency, authorizing the licensee to provide child care in accordance with provisions of the license, the law, and the regulations of the Department of Human Services. Issuance of a license is not an endorsement of child care methods or of an agency’s operational philosophy.

(14) Licensee-The person, agency, group, or entity to whom or to which a license to operate a child care agency is issued by the Department of Human Services.

(15) Reapplication-Application for a new license following denial or revocation of a license.

(16) Restricted license-A license which, either at the time of issuance, or during the license’s existence, is reduced in its operational authority by the Department so that the child care agency’s ability to provide certain child care related services are limited because the Department has determined that one or more areas of the agency’s operations are not in compliance with child care laws or regulations or the agency’s operations are, or have posed, a risk to the health, safety or welfare of children in the agency’s care or the agency’s operations pose the potential of such risk. A restricted license may also be imposed by the Child Care Agency Board of Review as part of its review of the licensing status of a child care agency in the same manner and for the same reasons as such a license is issued or imposed by the Department. A restricted license may be appealed to the Child Care Agency Board of Review.

(17) Revocation-The permanent removal of an existing license.

(18) Suspension-The temporary removal of a license for violation of licensing laws or regulations immediately affecting the health, safety, or welfare of children in a child care agency.

(19) Temporary license:

(a) A permit issued by the Department to a new child care agency allowing and authorizing the temporary...
licensee to begin child care operations while the agency attempts to attain full compliance with all other applicable regulations.

(b) The temporary license is valid, unless suspended, for one hundred twenty (120) days or until the application for an annual license is finally determined, and is issued upon application or reapplication by the applicant only if the staff and facility do not present any apparent hazards to the children that may be in care and only if the facility has received fire safety and environmental sanitation approval and if the applicant and the personnel who will care for the children are capable in all substantial respects to care for the children and that the applicant has the ability and intent to comply with the licensing laws and regulations.

(c) If, at the end of the one hundred twenty (120) day period, evidence is provided by the applicant that such child care agency is suitable and properly managed and that the agency is in compliance with the rules governing the applicable class of child care agency, the Department will issue an annual license to the child care agency unless the Department determines that a restricted license should be issued.

1240-04-05-.03. LICENSING PROCESS.

(1) Licensing Criteria.

(a) A license for the operation of a child care agency is issued and its continued approval is based upon the following general criteria:

1. The safety, welfare and best interests of the children in the care of the agency;

2. The capability, training and character of the persons providing or supervising the care to the children;

3. The quality of the methods of care and instruction provided for the children;

4. The suitability of the facilities provided for the care of the children; and

5. The adequacy of the methods of administration and the management of the child care agency, the agency’s personnel policies, and the financing of the agency.

(b) Failure to attain or maintain the criteria in subparagraph (a) either alone, or in conjunction with failure to attain or maintain compliance with any other regulations governing the specific class of child care agency, may be the basis for refusal to grant a license, or for placing the child care agency on probation, or for suspension, denial or revocation of the agency’s license.

(2) The Department shall assist applicants or licensees in meeting the child care standards of the Department unless the circumstances demonstrate that further assistance is not compatible with the continued safety, health or welfare of the children in the agency’s care and that regulatory action affecting the agency’s license is

Current through rules effective April 2014.
warranted. It is the responsibility of the applicant/licensee to comply with all regulations of the Department of Human Services and those regulations of any other federal, state or local regulatory agency which are necessary for the proper operation of a child care business and to demonstrate to the Department a good faith commitment to attaining and maintaining compliance with all applicable licensing standards. All costs and expenses arising from or related to meeting the child care standards of the Department shall be borne entirely by the applicant or licensee; provided, however, the Department may, in its discretion, provide from available funds technical assistance to child care agencies, and for the training of child caregivers and directors.

(3) If a licensee is denied the renewal of a license, or if a license is revoked or suspended, or if any applicant for a license cannot meet the standards, then the Department shall offer reasonable assistance to the parent, guardian or custodian of the child in planning for the placement of such children in licensed child care agencies or other suitable care.

(4) Application for New License or for Renewal of an Existing License.

(a) Application for a license to operate a child care agency shall be made in writing to the Department in such manner as the Department determines and shall be accompanied by the appropriate fee set forth in the fee schedule in paragraph (15).

(b) Application for and Granting of the Renewal of a License.

1. Application for renewal of any existing license shall be made before the date of expiration of the existing license. The application shall be filed by the applicant in the office of the Department having responsibility for providing service to the area in which the child care agency is located.

2. A renewal application shall be deemed timely received if postmarked before the date of expiration of the existing license. Failure to timely file an application for renewal of an existing license shall preclude further operation of the child care agency on and after the expiration date of the license, and failure to timely re-apply for renewal under the provisions of 1240-4-5-.06(7) shall preclude further operation of the child care agency after the expiration of any time period permitted therein.

3. A licensee seeking renewal of a license must demonstrate satisfactory compliance with all health and safety requirements applicable to its operations and any other applicable licensing laws and rules of the Department to obtain renewal of the license.

(5) Temporary License.

(a) If the Department determines that the applicant for a license, which is not the renewal of an existing license, has presented satisfactory evidence that the facility which is proposed for the care of children has received fire safety and environmental safety approval, that the applicant and the personnel who will care for the children are capable in all substantial respects to care for the children and that the applicant has the ability and intent to comply with the licensing law and regulations, the Department shall issue a temporary license to the applicant. No temporary license will be issued until, at a minimum, fire safety and environmental safety inspections have been conducted and the applicant has received approval from the appropriate agencies.

Current through rules effective April 2014.
(b) If the Department determines that the conditions of the applicant’s facility, its methods of care or other circumstances warrant, it may issue a restricted temporary license which limits the agency’s authority in one or more areas of operation.

(c) The purpose of the temporary license is to permit the license applicant to demonstrate to the Department that it has complied with all licensing laws and regulations applicable to its classification prior to the issuance of an initial annual license.

(d) Within one hundred twenty (120) days of the issuance of the temporary license, the Department shall determine if the applicant has complied with all regulations governing the classification of child care agency for which the application was made.

(6) Annual License.

(a) If the Department determines that the applicant for any license has complied with all licensing regulations for the classification of child care agency for which application was made, the Department shall issue an annual license, or shall, if appropriate issue a restricted annual license as provided in subparagraph (b).

(b) If the Department determines that the conditions of the applicant’s facility, its methods of care or other circumstances warrant, it may issue a restricted annual license which limits the agency’s authority in one or more areas of operation.

(7) License Information.

(a) Based upon information provided in the license application or as may be requested by the Department, the license shall describe the ownership of the child care agency, the person who is charged with the day-to-day management of the child care agency, and, if the agency is owned by a person other than the director, or if the agency is under the ownership or direction or control of any person or entity who is not also the on-site director or manager of the agency, the license shall also state the corporate or other name of the controlling person or entity, its address and telephone number where the parents, guardians or custodians may have contact regarding the agency’s operations.

(b) If the child care agency is operated by a public or private non-profit entity and is subject to the control or direction of a board of directors or other oversight authority, the license shall list the name, address and telephone number of the chairman of the board or other executive head of such controlling body.

(8) Posting of License.

The licensee shall post the license in a clearly visible location as determined by the Department so that parents or other persons visiting the agency can readily view the license and all the information on the license.

(9) Before and After School Services.

(a) In order for a child care agency to offer before or after school services, the Department will issue a
Tennessee Rules and Regulations Currentness _1240. Department of Human Services _1240-04. Adult and Family Services Division _Chapter 1240-04-01. Standards for Group Child Care Homes (Refs & Annos)

license bearing a notation that the agency is authorized to provide such services.

(b) An agency is not authorized to offer such services unless the license bears such a notation.

(10) In granting a license, the Department may limit the total number of children who may be enrolled at the agency regardless of the agency’s physical capacity or the size of its staff.

(11) License Status Following Application or Appeal.

(a) If the Department fails to issue or deny an annual license within one hundred twenty (120) days of the granting of the temporary license, the temporary license shall continue in effect, unless suspended as provided in 1240-4-5-.04(5), until such determination is made.

(b) If an annual license is denied following the issuance of a temporary license, and if a timely appeal is made of the denial of the annual license, the temporary license shall remain in effect, unless suspended as provided in 1240-4-5-.04(5), until the Child Care Agency Board of Review renders a decision regarding the denial of the annual license.

(12) If a temporary or annual license is denied, or an annual license is restricted, the applicant may appeal the denial or restriction as provided in §§ 71-3-509 and 71-3-510 and other applicable laws and rules governing the Child Care Agency Board of Review.

(13) Extended Licenses.

(a) Following the expiration of a least one (1) annual license, the Department may issue an extended license to a licensee who seeks renewal of an existing license if the Department determines that the licensee has demonstrated that its methods of child care and its adherence to licensing laws and regulations are clearly appropriate to justify an extended licensing period. An extended license may not be granted as the first license immediately following any temporary license.

(b) No extended license shall exceed three (3) years duration.

(c) At the time renewal of the extended license is sought, or at any other time during the licensing period, the Department may reduce the period of the extended license to a shorter period if it determines that the licensee has failed to demonstrate continued adherence to the requirements for the issuance of the extended license. The licensee may appeal such action as provided in TCA §§ 71-3-509 and 71-3-510 and other applicable laws and rules governing the Child Care Agency Board of Review.

(d) The issuance of an extended license shall not be construed in any manner to prevent the Department from suspending or revoking the license, or placing an agency on probation, or imposing a civil penalty, if it determines that such action is appropriate.

(14) Transfers of Licenses.

Current through rules effective April 2014.
(a) Except as provided in this chapter, no license for a child care agency shall be transferable from one location to another or from one licensee/operator to another, and the transfer by sale or lease, or in any other manner, of the operation of the agency to any other person or entity shall void the existing license immediately and any pending appeal involving the status of the license, and the agency shall be required to close immediately. If the transferee has made application for, and is granted, a temporary license prior to the transfer of ownership or control of the child care agency, the agency may continue operation under the direction of the new licensee. The new licensee in such circumstances may not be the transferor or any person or entity acting on behalf of the transferor.

(b) Notice of Termination to Buyer/Lessee/Transferee

1. Except for transfers subject to the provisions of subparagraph (d), at least thirty (30) days before the sale, lease, or transfer by any other means, of a child care agency, the licensee/owner/management of the child care agency shall notify in writing the buyer, lessee or other prospective transferee of the child care agency that the license of the child care agency is not transferable and that upon the effective date of the transfer, the license of the child care agency will automatically terminate and of the need to seek a temporary license from the Department for continued operation of the child care agency.

2. The licensee/owner/management of the child care agency shall notify in writing the Department at the same time the notice required by part 1 is sent and shall clearly identify the date of the transfer and the identity of the prospective buyer/lessee/transferee.

(c) If the Department determines that any person or entity has transferred nominal control of an agency to any persons or entities who are determined by the Department to be acting on behalf of the purported transferor in order to circumvent a history of violations of the licensing law or regulations or to otherwise attempt to circumvent the licensing law or regulations or any prior licensing actions instituted by the Department, the Department may deny the issuance of any license to the applicant. The denial of the license may be appealed as provided in TCA §§ 71-3-509 and 71-3-510 and other applicable laws and rules governing the Child Care Agency Board of Review.

(d) The license of any agency shall not be voided nor shall any pending appeal be voided pursuant to this paragraph solely for the reason that the agency is subject to judicial orders directing the transfer of control or management of a child care agency or its license to any receiver, trustee, administrator or executor of an estate, or any similarly situated person or entity.

(e) If the current licensee dies, and provided that no licensing violations require the suspension, denial or revocation of the agency’s license, the Department may grant family members of the licensee, or administrators or executors of the licensee, a new temporary license to continue operation for a period of one hundred and twenty (120) days if it determines that the persons or entities who will assume operations of the agency otherwise meet the requirements of this chapter and the rules governing the operation of the class of child care agency for which the license is sought. At the end of such period, the Department shall determine whether an annual or extended license should be granted to a new licensee as otherwise provided in this chapter.

(f) Nothing in this paragraph shall be construed to prevent the Department from taking any regulatory or judicial action as may be required pursuant to the licensing laws and regulations that may be necessary to protect the children in the care of such agency.
(15) Licensing Fees.

The following licensing fees shall apply to applications for licenses for child care agencies licensed by the Department effective January 1, 2001:

<table>
<thead>
<tr>
<th>(a) Family child care homes:</th>
<th>Annual fee</th>
<th>$100.00</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Biennial fee</td>
<td>$150.00</td>
</tr>
<tr>
<td></td>
<td>Triennial fee</td>
<td>$175.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(b) Group child care homes</th>
<th>Annual fee</th>
<th>$125.00</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Biennial fee</td>
<td>$175.00</td>
</tr>
<tr>
<td></td>
<td>Triennial fee</td>
<td>$200.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(c) Child care centers (Less than 100 children)</th>
<th>Annual fee</th>
<th>$200.00</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Biennial fee</td>
<td>$250.00</td>
</tr>
<tr>
<td></td>
<td>Triennial fee</td>
<td>$300.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(d) Child care centers (More than 100 children)</th>
<th>Annual fee</th>
<th>$400.00</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Biennial fee</td>
<td>$450.00</td>
</tr>
<tr>
<td></td>
<td>Triennial fee</td>
<td>$500.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(e) Child care centers (More than 250 children)</th>
<th>Annual fee</th>
<th>$500.00</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Biennial fee</td>
<td>$550.00</td>
</tr>
</tbody>
</table>

Current through rules effective April 2014.
1240-04-05-.04. VIOLATIONS OF LICENSING REGULATIONS.

(1) Right of Inspection

(a) It is the duty of the Department, through its duly authorized agents, to inspect at regular intervals, without previous notice, all child care agencies or suspected child care agencies, as defined in § 71-3-501.

(b) The Department is given the right of entrance, privilege of inspection, access to accounts, records, and information regarding the whereabouts of children under care for the purpose of determining the kind and quality of the care provided to the children and to obtain a proper basis for its decisions and recommendations.

(c) If refused entrance for inspection of a licensed, approved or suspected child care agency, the chancery or circuit court of the county where the licensed, approved or suspected child care agency may be located may issue an immediate ex parte order permitting the Department’s inspection upon a showing of probable cause, and the court may direct any law enforcement officer to aid the Department in executing such order and inspection. Refusal to obey the inspection order may be punished as contempt.

(d) Except where court orders prohibit or otherwise limit access, parents or other caretakers of children in the care of a child care agency licensed pursuant to TCA 71-3-501 et seq. shall be permitted to visit and inspect the facilities and observe the methods for the care of their children at any time during which the children are in the care of the agency and, except those records of other children in the care of the agency and their parents or caretakers, shall further be permitted to inspect any records of the agency which are not privileged, or are not otherwise confidential, as provided by law or regulation, and the parents’ or caretakers’ access for these purposes shall not be purposely denied by the agency.

(e) Any violation of the rights given in this paragraph is a Class A misdemeanor.
(2) Probation.

(a) If, during the licensing period, the Department determines that a child care agency is not in compliance with the laws or regulations governing its operation, and, if after reasonable written notice to the agency of the violation, the Department determines that the violation remains uncorrected, the Department may place the licensed agency on probation for a definite period of not less than thirty (30) days nor more than sixty (60) days as determined by the Department. The Department shall provide the agency a written basis describing the violation of the licensing rules that support the basis for the probationary status.

(b) If placed on probation, the agency shall immediately post a copy of the probation notice, together with a list provided by the Department of the violations which were the basis for the probation, in a conspicuous place as directed by the Department and with the agency’s license, and the agency shall immediately notify in writing the custodians of each of the children in its care of the agency’s status, the basis for the probation and of the agency’s right to an informal review of the probationary status.

(c) If the agency requests an informal review within two (2) business days of the imposition of probation, either verbally or in writing to the Department’s licensing staff which imposed the probation, the Department shall informally review the probationary status by a licensing supervisor or other designee who was not involved in the decision to impose the probation. The agency may submit any written or oral statements as argument to the licensing supervisor or designee within five (5) business days of the imposition of the probation. Written and oral statements may be received by any available electronic means. The licensing supervisor or designee shall render a decision in writing upholding, modifying or lifting the probationary status within seven (7) business days of the imposition of the probation.

(d) If the licensing supervisor or designee did not lift the probation under subparagraph (c), the agency may also appeal such action in writing to the Commissioner within five (5) business days of the receipt of the notice of the licensing supervisor or designee’s decision regarding the agency’s probationary status as determined in subparagraph (c). If timely appealed, the Department shall conduct an administrative hearing pursuant to the contested case provisions of §§ 4-5-301 et seq. concerning the Department’s action within fifteen (15) business days of receipt of the appeal and shall render a decision in writing within seven (7) business days following conclusion of the hearing. The hearing officer may uphold, modify or lift the probation.

(e) The provisions of this paragraph shall be discretionary with the Department, and shall not be a prerequisite to any licensing action, to impose a civil penalty or to suspend, deny or revoke a license of a child care agency.

(3) Civil Penalties.

(a) General Provisions

1. If the Department determines that there exists any violation with respect to any person or entity required to be licensed pursuant to TCA §§ 71-3-501 et seq., the Department may assess a civil penalty against such person or entity for each separate violation of a statute, rule or order pertaining to such person or entity in an amount ranging from Fifty Dollars ($50.00) for minor violations up to a maximum of One Thousand Dollars ($1,000.00) for major violations or violations resulting in death or injury to a child as defined in the rules of the Department. Each day of continued violation constitutes a separate violation.
2. Civil penalties may not be imposed only upon recommendation of a licensing counselor or licensing supervisor. Any recommendation for a civil penalty shall be reviewed by the Department’s state office licensing staff and the Department’s legal staff before being imposed.

(b) Civil Penalties Schedule.

1. Major Violations.

(i) For any violation of any licensing laws or regulations that, due to negligence or intentional disregard of licensing law or regulations, results in serious injury to, or death of, a child, the Department may assess a civil penalty in a range from Seven Hundred Fifty Dollars ($750.00) up to One Thousand Dollars ($1,000.00). The Department shall determine the amount of the penalty based upon the extent of the injury to the child and whether the injury or death of the child was the result of negligence or intentional disregard of the licensing regulations. Consideration of the licensee’s history of prior violations shall also be a factor in the determination of the amount of the civil penalty.

(ii) For any violation of any licensing laws or regulations that, due to negligence or intentional disregard of licensing law or regulations, results in an injury to a child, the Department may assess a civil penalty in a range from Three Hundred Dollars ($300.00) up to Five Hundred Dollars ($500.00). The Department shall determine the amount of the penalty based upon the extent of the injury and whether the injury to the child was the result of negligence or intentional disregard of the licensing regulations. Consideration of the licensee’s history of prior violations shall also be a factor in the determination of the amount of the civil penalty.

(iii) For violations of the following categories of regulations the Department may impose a civil penalty of Two Hundred Dollars ($200.00) for the first violation, Three Hundred Dollars ($300.00) for the second violation, and Four Hundred Dollars ($400.00) for the third and any subsequent such violation:

(I) Failure to follow any rule related to the proper transportation of children by employees, substitutes, volunteers, agents or contractors of the agency;

(II) Adult:Child Ratios;

(III) Lack of proper supervision of children;

(IV) Failure to properly dispense or store medications;

(V) Failure to remove persons from access to children following notification of a prohibited criminal background or pending criminal charge or following notification of the person’s validated status as a perpetrator of child abuse;

(VI) Failure to properly store hazardous items such as, but not limited to, cleaning products, pesticides, hazardous chemicals, or other poisonous items; and

Current through rules effective April 2014.
(VII) Failure to properly remove or secure firearms within the child care agency area which are under the ownership or control of the agency, or its staff substitutes or other persons permitted access to the children, or failure to prevent exposure of children in the agency’s care to firearms which are under the control of the agency, or its staff, substitutes or other persons who have been permitted by the agency to have access to the children;

(iv) The existence of six (6) or more minor violations of any type in any period of three (3) or more months shall constitute a major violation and may be subject to a civil penalty imposed by the Department of Two Hundred Dollars ($200.00) in addition to the penalty for each minor violation. Three (3) or more minor violations of the same regulation in any period of three (3) or more months shall constitute a major violation and may be subject to a civil penalty imposed by the Department of Two Hundred Dollars ($200.00) in addition to the penalty for each minor violation.


(i) A minor violation shall be any rule violation not described as a major violation in part 1.

(ii) Each minor violation may subject the licensee to a civil penalty of Fifty Dollars ($50.00).

(c) The Department shall assess any civil penalty that it imposes in an order that states the reasons for the assessment of the civil penalty and the amount of the penalty.

(d) The order may be served on the licensee personally by an authorized agent of the Department who shall complete an affidavit of service, or the order may be served by certified mail, return receipt requested.

(e) The licensee may appeal the penalty to the Child Care Agency Board of Review by filing a request for an appeal in writing with the Commissioner within ten (10) days of the personal service of the order or mailing date of the order. The hearing on the appeal shall be heard within ninety (90) days unless continued for good cause shown.

(f) Civil penalties assessed pursuant to this subsection shall become final ten (10) days after the date an order of assessment is served if not timely appealed, or, if timely appealed, within seven (7) days following entry of the Board’s order unless the Board’s order is stayed.

(g) Remedies for Failure to Pay Civil Penalty.

1. If the violator fails to pay an assessment when it becomes final, the Department may apply to the Chancery Court of Davidson County, Tennessee for a judgment and seek execution of such judgment.

2. No application for a new license or for renewal of an existing license will be accepted by the Department until a civil penalty that has become final has been paid in full. Failure to pay in full a civil penalty which has become final is grounds for denial of a pending application for a new annual license or a pending application for renewal or extension of an existing license, and, further, is grounds for
(h) The determination to impose a civil penalty shall be discretionary with the Department and shall not be a prerequisite to any other licensing action to suspend, deny or revoke a child care agency’s license. Civil penalties may also be used in conjunction with the probation, suspension, denial or revocation of a license.

(4) Denial and Revocation of Licenses.

(a) If the Department determines that any applicant for a temporary license or for the renewal of an existing license has failed to attain, or an existing licensee has failed to maintain, compliance with licensing laws or regulations after reasonable notice, consistent with the safety of the children in the care of the child care agency, of such failure and a reasonable opportunity to demonstrate compliance with licensing laws or regulations, the Department may deny the application for the new or renewed license or may revoke the existing license; provided, however, the Department at any time may deny a temporary license if the applicant fails to meet the initial requirements for its issuance; and, provided, further, if the Department determines that repeated or serious violations of licensing laws or regulations warrant the denial or revocation of the license, then, notwithstanding any provisions of § 4-5-320 or this paragraph to the contrary, the Department may seek denial or revocation of the license regardless of the licensee’s demonstration of compliance either before or after the notice of denial of the application or before or after notice of the revocation of the license.

(b) Notwithstanding the provisions of TCA § 4-5-320, the notice of denial or revocation may be served personally by an authorized representative of the Department who shall verify service of the notice by affidavit, or the notice may be served by certified mail, return receipt requested.

(c) If application for the temporary, annual, or extended license is denied or if an existing license is revoked, the applicant may appeal the denial or revocation by requesting in writing to the Department a hearing before the Child Care Agency Board of Review within ten (10) days of the personal delivery or mailing date of the notice of denial or revocation. Failure to timely appeal shall result in the expiration of any existing license immediately upon the expiration of the time for appeal.

(d) The hearing shall be held in accordance with the hearing procedures before the Child Care Agency Board of Review pursuant to the licensing law.

(e) If timely appeal is made, then, pending the hearing upon the denial or revocation, the child care agency may continue to operate pending the decision of the Child Care Agency Board of Review unless the license is summarily suspended as provided in paragraph (5).

(5) Summary Suspension of Licenses.

(a) Subject to the following provisions of this section, if the Department determines at anytime that the health, safety or welfare of the children in care of the child care agency imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of the license may be ordered by the Department pending any further proceedings for revocation, denial or other action. Summary suspension may be ordered in circumstances that have resulted in death, injury or harm to a child or which have posed or threatened to pose a serious and immediate threat of harm or injury to a child based upon the intentional or negligent failure to comply with licensing laws or regulations.

Current through rules effective April 2014.
(b) Contents of the Order of Summary Suspension.

1. The licensee shall be provided written notice of the issuance of the order of summary suspension and shall be notified that the licensee has the opportunity for an informal hearing before an administrative law judge or before a hearing officer who is not an employee of the Department (except as provided in part (e)(3)) within three (3) business days of the issuance of the order of summary suspension.

2. The Department shall set forth with specificity in its order the legal and factual basis for its decision, stating therein the specific laws or regulations which were violated by the agency, and shall state with specificity in the order the reasons that the issuance of the order of summary suspension is necessary to adequately protect the health, safety or welfare of children in the care of the child care agency.

3. The order shall state the time, date and location of a show cause hearing to determine if the suspension is appropriate, shall state the issues involved as described in subparagraph (f) and shall notify the licensee of the right to be represented by counsel.

(c) The notice may be personally delivered by any authorized representative of the Department to any person in charge of or reasonably believed to be in charge or who may be supervising the agency at the time of delivery. If such person is not the licensee, the order shall also be sent to the licensee by certified mail, return receipt requested, but the effect of the order shall not be delayed by mail delivery. The order shall contain a certificate of service or shall have attached to it a certificate verifying its service by personal delivery, and, if required, by certified mail service.

(d) The order shall be effective upon entry by the Commissioner, or the Commissioner’s designee, at such time as directed by the order. Upon receipt of the order by any person to whom the order is delivered at the child care agency, the agency shall cease or limit its operations at such time and in such manner as the order directs.

(e) Hearing Official and Authority.

1. Hearings on summary suspension orders shall be heard by an administrative law judge from the Administrative Procedures Division of the Secretary of State’s Office, if the administrative law judge is available within the time frames for a summary suspension hearing.

2. If the Administrative Procedures Division of the Secretary of State’s Office informs the Department that an administrative law judge is unavailable, the Department may obtain an administrative law judge, or hearing officer who is not an employee of the Department except as provided herein. The substitute administrative law judge or hearing officer may be obtained by the Department by contract with a private attorney or by contract or agreement with another state agency. If the Administrative Procedures Division of the Office of the Secretary of State informs the Department that the Division’s contested case docket prevents the scheduling of a hearing on the issuance of a summary suspension order within the initial timeframes set forth in this subparagraph, and if the Department is unable to obtain a private or state agency administrative law judge or hearing officer to hear the show cause hearing on the summary suspension order within the timeframes set forth in this part, the Department may utilize a hearing officer from the Department’s Administrative Review section.

Current through rules effective April 2014.
3. The administrative law judge or hearing officer shall have authority, as otherwise permitted in this section and subject to the provisions of subparagraph (h), to enter orders binding on the Department resulting from show cause hearings involving summary suspension orders.

(f) Hearing Procedures.

1. The informal hearing described by this subdivision shall not be required to be held under the contested case provisions of TCA § 4-5-301 et seq.

2. The hearing is intended to provide an informal, reasonable opportunity for the licensee to present to the hearing official the licensee’s version of the circumstances leading to the suspension order and any measures taken to correct the violations leading to the suspension.

3. The only issues to be considered are whether the public health, safety or welfare imperatively required emergency action by the Department and what, if any, corrective measures have been taken by the child care agency following the violation of the licensing laws or regulations cited by the Department and prior to the issuance of the order of summary suspension, that would eliminate the danger to the health, safety or welfare of the children in the care of the agency.

(g) Hearing Order.

1. Upon conclusion of the hearing, the administrative law judge or hearing officer shall render a decision immediately regarding the status of the agency’s license and shall state the basis for the decision.

2. The administrative law judge or hearing officer may lift, modify, or continue the suspension based upon the evidence presented and the stipulations and agreements of the parties.

3. The hearing order containing findings of fact and conclusions of law to support the decision shall be reduced to writing within fifteen (15) days after the hearing and shall be sent to the parties and their counsel.

(h) Revocation, Denial of the License Following Suspension or Modification of the Order of Summary Suspension by the Department.

1. Subsequent to the hearing on the summary suspension, the Department may proceed with revocation or denial of the license or other action as authorized by this part, regardless of the decision concerning summary suspension of the license, or the Commissioner, upon satisfactory proof that the conditions warrant, may by further order, lift or reduce the restrictions contained in the order of summary suspension without further order by the administrative law judge or hearing officer, or, may, upon agreement of the licensee, further modify the order by imposing new, additional or different restrictions or conditions upon the licensee or the licensee’s operations. A summary suspension order entered by the Department may be lifted or modified by the Department following its entry by the Department as provided in this part, before, or after, a case is docketed with the Child Care Agency Board of Review, without further approval of the Board or a Board panel.

Current through rules effective April 2014.
2. If the Department determines that revocation or denial of the license is warranted following suspension, those proceedings shall be promptly instituted and determined as authorized by the licensing law.

3. Unless extended by agreement of the licensee, the order of summary suspension shall be dissolved upon motion of the licensee unless the Department has issued a notice of denial or revocation of the license within thirty calendar (30) days of the summary suspension order’s entry.

Tenn. Comp. R. & Regs. 1240-04-05-.05

1240-04-05-.05. RESTRICTED LICENSES FOR CHILD CARE AGENCIES.

(1) Limitation of Authority

(a) In determining whether to deny, revoke or summarily suspend a license, the Department may choose to deny, revoke or suspend only certain authority of the licensee to operate and may permit the licensee to continue operation, but may restrict or modify the licensee’s authority to provide certain services or perform certain functions, including, but not limited to: transportation or food service, enrollment of children at the agency, the agency’s hours of operation, the agency’s use of certain parts of the agency’s physical facilities or any other function of the child care agency which the Department determines should be restricted or modified to protect the health, safety or welfare of the children.

(b) The restrictions shall be contained in the notice of denial or revocation or in the order of summary suspension entered by the Department and shall state the basis for the restriction and the specific areas of operation which are to be limited.

(2) The actions by the Department authorized by this section may be appealed to the Child Care Agency Board of Review as otherwise provided by the licensing law for any denial or revocation, or as provided in this chapter for summary suspensions of licenses.

(3) Appeal and Status of Restricted License.

(a) If the licensee does not appeal the issuance of a restricted license or the summary suspension of authority to operate, it may petition the Department to request that the restrictions be removed or altered.

(b) If timely appeal is made, then, pending the hearing upon the restricted license, the child care agency may continue to operate pending the decision of the Child Care Agency Board of Review unless the license is summarily suspended as provided in Section .04(5).

(4) The Department may, at any time, modify or remove the restrictions on the license upon order of the Commissioner, or the Commissioner’s designee.

Tenn. Comp. R. & Regs. 1240-04-05-.06

1240-04-05-.06. REAPPLICATION PERIODS.

Current through rules effective April 2014.
(1) When an application for a license has been denied, or a license has been revoked, on one (1) occasion, the child care agency may not reapply for a license for a period of one (1) year from the effective date of the denial or revocation order if not appealed, or, if appealed, from the effective date of the Child Care Agency Board of Review’s or reviewing court’s order.

(2) If application for a license has been denied, or a license has been revoked, on two (2) occasions, the child care agency may not reapply for a license for a period of two (2) years from the effective date of the denial or revocation if not appealed or, if appealed, from the effective date of the Child Care Agency Board of Review’s or reviewing court’s order.

(3) If an application for a license has been denied, or a license has been revoked on three (3) occasions, the agency shall not receive another license for the care of children.

(4) No person who served as full or part owner or as director or as a member of the management of a child care agency shall receive a license to operate a child care agency if that person participated in such capacity in a child care agency which has been denied a license, or which had a license revoked, on three (3) occasions.

(5) Waivers

(a) The time restrictions in paragraphs (1) and (2) may be waived by the Child Care Agency Board of Review in the hearing in which the denial or revocation is sustained, or, if requested by the former licensee in writing to the Commissioner, in a separate subsequent hearing before the Child Care Agency Board of Review or, in the discretion of the Commissioner, upon review by the Commissioner. No waiver may be granted for any permanent restriction imposed pursuant to paragraph (3).

(b) The agency must show to the Child Care Agency Board of Review’s or the Commissioner’s satisfaction, by a preponderance of the evidence, that the agency has corrected the deficiencies which led to the denial or revocation, and that the child care agency can demonstrate that it has the present and future ability, and is willing, to maintain compliance with licensing laws or regulations.

(c) The decision of the Child Care Agency Board of Review or the Commissioner shall be reduced to an order, which shall be a final order pursuant to Title 4, Chapter 5, Part 3 of the Tennessee Code Annotated, and may be appealed pursuant to TCA § 4-5-322.

(7) When, except for provisions relative to the continuation of the license provided in Rule 1240-4-5-.03(11), 1240-4-5-.04(4)(e) or 1240-4-5-.05(3)(b), a license would have expired during the time a case involving that license is being litigated before the Child Care Agency Board of Review or a reviewing court, and the Child Care Agency Board of Review or reviewing court does not uphold the Department’s denial, revocation or restriction of the license, the licensee must apply for a renewal of an annual license within ten (10) business days of the entry of the Child Care Agency Board’s or reviewing Court’s order.

(8) For purposes of this section, unless otherwise specified in the order, the “effective date of the board’s or court’s order” shall mean the date the order is entered by the Chair of the Child Care Agency Board of Review or panel chair or vice-Chair of the Child Care Agency Board of Review.

Current through rules effective April 2014.
Tenn. Comp. R. & Regs. 1240-04-07-.01

1240-04-07-.01. PURPOSE AND SCOPE.

(1) These rules implement the provisions of Tennessee Code Annotated, § 71-3-502(j) requiring that the Department of Human Services, in consultation with the Tennessee Commission on Children and Youth, establish and implement a system for evaluating, individually and collectively, all child care agencies licensed or approved by the Department of Human Services.

(2) This system is to consist of a mandatory annual report card evaluation for each child care agency, and a voluntary rated licensing system that includes a summary which is to be posted at each child care agency reflecting key indicators of performance comparison among all Tennessee child care agencies.

(3) This system is established for the purpose of allowing parents or caretakers of children to make more informed choices regarding the child care options available for their children by comparing the relative quality of child care services offered by licensed child care agencies and to encourage the improvement of child care for Tennessee’s children.

Tenn. Comp. R. & Regs. 1240-04-07-.02

1240-04-07-.02. DEFINITIONS.

(1) Accreditation. The process by which a credentialing authority endorses or approves the child care methods and programs of a child care agency. The Department does not approve or endorse a credentialing authority’s standards and/or methods of evaluation.

(2) Assessment Instrument. The valid and reliable measurement tool(s) identified and utilized by DHS to perform an on-site observation and evaluation of the child care agency program and provide a score to that child care agency. The scoring of the instrument(s) produce(s) a valid measure of the quality of the child care program.

(3) Assessment Results Report. A written report containing additional information about the Program Assessment component of an agency’s report card evaluation.

(4) Assessor. An individual trained in the use of the Assessment Instrument who conducts the Program Assessment component of the Report Card Evaluation of a child care agency in accordance with the procedures set by the Report Card system and Star-Quality Program.

(5) Bonus Payment. An amount paid through the Child Care Certificate Program that is above and beyond the basic subsidy rate and is based upon the Star-Quality rating achieved by a participating agency.

(6) Certificate Payment. Payments made through Child Care Certificate Program to a participating agency,
either at the basic subsidy rate or at the higher rate paid to an eligible child care agency based upon the agency’s Star-Quality rating.

(7) Child Care Agency. Includes a child care center, group child care home, or family child care home.

(8) Child Care Center Administrator. An individual(s), corporation, partnership, cooperative, or other public or private entity of any kind, or any combination thereof, that, either personally or through an authorized representative, assumes, or is legally required to assume, ultimate legal, financial and administrative responsibility for the management and control of a child care center.

(9) Child Care Certificate Program. A DHS program that provides financial assistance to eligible families to help cover the cost of child care. A child care agency that applies with the Department for enrollment in the program is eligible to receive certificate payments.

(10) Child Care Environment. The organization of space, interactions of children with each other and with staff, the variety and type of activities offered by the child care agency, the schedule of activities for children, and opportunities provided for staff and parents relating to the areas of professional growth, parental involvement, intentional teaching, and social-emotional development.

(11) Child Care Home Administrator. An individual(s), corporation, partnership, cooperative, or other private or public entity of any kind, or any combination thereof, that, either personally or through an authorized representative, assumes, or is legally required to assume, ultimate responsibility for the management and control of any or all family or group child care homes.

(12) Child Care Resource & Referral (CCR&R). A statewide network of regionally located agencies that assist parents, providers, and the community by offering information on child care and by providing technical assistance, consultation, resource materials, and training to child care providers.

(13) Civil Penalty. A financial sanction imposed by the Department against a child care agency that has violated a licensing regulation. See Rule 1240-04-05-.04

(14) Compliance History. A record of an agency’s history with respect to attaining and maintaining compliance with applicable licensing laws and regulations.

(15) Component Areas. The key indicators of performance included on the Star-Quality report card indicating eligibility for levels in the Star-Quality Program.

(16) Criteria. The individual items which are evaluated within each component area of the report card.

(17) Department. The Tennessee Department of Human Services (DHS).

(18) Director. The on-site manager for a child care agency who has overall responsibility for the daily oversight of all staff and direct child care services. The director, with the guidance of the board of directors or owner of the agency, shall be responsible for supervision, training, and evaluation of the staff, the program and the day-
to-day operation of the center.

(19) Early Care and Education. A system that includes pre-kindergarten, Head Start, and licensed center-based and home child care programs, dedicated to the care, education, protection, supervision or guidance of children beginning at birth.

(20) License. A permit issued by the Department to a child care agency authorizing the agency (the licensee) to provide child care in accordance with the provisions of the license, the law, and the regulations of the Department of Human Services.

(21) Licensing Evaluation. The verification of compliance with all applicable laws and regulations for the issuance of a new or a renewed license. The evaluation includes all component areas of the report card.

(22) Licensing Program Evaluator. DHS licensing staff responsible for evaluating an agency on all component areas except for the Program Assessment.

(23) Primary Caregiver. The adult who is responsible for direct care and supervision of children in a family or group child care home and for the daily operation of the home. In a child care home, which is not operated by a child care home administrator, the primary caregiver is the licensee. Duties may include hiring, training and supervision of other caregivers.

(24) Professional Development Plan. The written document in which a caregiver has personally identified, with input from the child care agency director/owner, the following:

(a) Long term educational goals;

(b) Early childhood content areas where additional knowledge and skills are needed for delivery of quality child care;

(c) Short term goals for improvement in knowledge and skills of specific early childhood content areas;

(d) A plan of action for successful completion of short term goals which includes steps toward goal(s), available resources, and completion date(s); and

(e) Long term career goals and the support needed for successful completion of these goals.

(25) Program Assessment. The process by which an on-site observation of the activities of a child care agency is conducted and which results in the assignment of a score utilizing the Assessment Instrument.

(26) Rated License. A license issued by the Department to a child care agency that is based upon the agency’s overall rating if the agency is eligible for, and chooses to participate in, the Star-Quality Program.
(27) Report Card. A report resulting from the Licensing Evaluation and Program Assessment which details the child care agency’s performance in component areas. The report card demonstrates an agency’s compliance with licensing requirements and eligibility for the Star-Quality Program.

(28) School-age Developmental Learning Standards. Standards which document the continuum of developmental milestones for school-age children based on the research about the processes, sequences, and long term consequences of learning and development.

(29) Star-Quality Program. A voluntary program, for which eligibility is determined by receiving scores on the report card evaluation that demonstrate more than basic compliance with licensing requirements. An eligible and participating child care agency will receive a Star-Quality Report Card and will be issued either a One-Star, Two-Star or Three-Star rated license.

(30) Star-Quality Report Card. A more detailed report card, issued to an agency that is eligible for and is participating in the Star-Quality Program, which provides the rating for each component area as well as the agency’s overall rating.

(31) Teaching Staff. Staff of a child care agency that work with children and that are used to meet adult:child ratios.

(32) Tennessee Early Childhood Training Alliance (TECTA). An early childhood professional development child care system articulated within Higher Education.

(33) Tennessee’s Early Childhood Program Administrator Credential (TECPAC). The recognition awarded to early childhood administrators who have demonstrated the specific competencies for effective leadership and management through academics, experiences, and portfolio assessment.

(34) Tennessee Early Learning Developmental Standards (TN-ELDS). A system which documents the continuum of developmental milestones from birth through age five (5) based on the research about the processes, sequences, and long term consequences of early learning and development.

1240-04-07-.03. REPORT CARD EVALUATION.

(1) The licensing evaluation process shall include an evaluation of the child care agency for a report card in accordance with the provisions set forth in this chapter.

(2) A child care agency satisfying basic licensing requirements shall receive a report card with the issuance of its renewed license that sets forth the agency’s rating in each component area, based upon applicable criteria contained within each component area.

(3) The component areas measure the key indicators of performance, set forth in Tennessee Code Annotated § Current through rules effective April 2014.
(a) “Director Qualifications” addresses the key indicator of “training, education, certification, and credentials of all supervisory staff, including the director or licensee.”

(b) “Professional Development” addresses the key indicator of “training, education, certification, and credentials of all supervisory staff, including the director or licensee.”

(c) “Parent/Family Involvement” addresses the key indicator of “child development and enrichment.”

(d) “Ratio and Group Size” addresses the key indicator of “staffing ratios.”

(e) “Staff Compensation” addresses the key indicator of “training, education, certification, and credentials of all supervisory staff, including the director or licensee.”

(f) “Program Assessment” addresses the key indicator of “health and safety,” “child development and enrichment,” and “adequacy of physical facilities.”

(4) Assignment of Ratings.

(a) The rating for each component area indicates the agency’s compliance with basic departmental licensing regulations.

(b) Each component area shall receive the maximum rating available as indicated below:

1. A child care agency that does no more than comply with the report card criteria listed under “Complies with Licensing Regulations” shall receive a rating for that component area of “Complies with Licensing Regulations.”

2. A child care agency that does no more than comply with the report card criteria listed under “Level One Criteria” shall receive a rating in that component area of “One Star.”

3. A child care agency that does no more than comply with the report card criteria listed under “Level Two Criteria” shall receive a rating in that component area of “Two Stars.”

4. A child care agency that complies with the report card criteria listed under “Level Three Criteria” shall receive a sub-rating in that component area of “Three Stars.”

(c) The agency’s overall rating shall be determined by totaling the ratings for each of the component areas and dividing this amount by the total number of component areas rated.

Current through rules effective April 2014.
1. If an agency’s accreditation has been approved by the Department, two (2) points shall be added to the total of the agency’s component ratings.

2. The total of the agency’s component ratings shall be divided by five (5) for a Family Child Care Home or a Group Child Care Home.

3. The total of the agency’s component ratings shall be divided by seven (7) for a Child Care Center.

4. The resulting average shall be rounded to the one-hundredth (1/100th) decimal point.

5. If the average falls on or between one-hundredths (.01) and forty-nine hundredths (.49), the total shall be rounded down to the next lower whole number.

Example: A total score of two and thirty-nine hundredths (2.39) is rounded down to a total score of two (2.0);

6. If the average falls on or between fifty hundredths (.50) and ninety-nine hundredths (.99), the total shall be rounded up to the next higher whole number.

Example: An average score of two and fifty-seven hundredths (2.57) is rounded up to a total score of three (3.0).

(5) Neither the agency’s overall rating, nor the rating on any component area, is subject to modification following completion of the report card evaluation, regardless of any changes that may have occurred in the agency, except as provided for in Rule 1240-04-07-.04(2) below.

(6) The agency’s current report card and license shall be posted together in a conspicuous area, as may be directed by the Department.

(7) Notation of Accreditation Status on Agency License and Report Card.

(a) A child care agency may request that the Department recognize accreditation(s) claimed by the agency by submitting to the Department documentation that reasonably verifies that the agency is accredited by a legitimate credentialing authority.

(b) If the Department recognizes the agency’s accreditation status, the Department shall list on the agency’s license and on the agency’s report card any accreditation(s) so recognized.

(c) The Department’s recognition of the accreditation status of a child care agency shall not be based upon religious affiliation or ethnicity.

(d) The Department will utilize a standard process in recognizing accrediting bodies.

Current through rules effective April 2014.
(1) Program Assessment.

(a) The assessment scores of each rated classroom shall be assigned by an assessor based upon on-site observation(s) of the child care agency in accordance with the provisions of the appropriate Assessment Instrument for the Report Card Evaluation system.

(b) A child care agency shall allow the assessor reasonable access to the facility and shall otherwise reasonably cooperate with the assessor in the performance of the assessment.

(c) If a child care agency has unreasonably prevented an assessment or has attempted to manipulate the outcome of an assessment, DHS may take the following actions:

1. If the assessment must be rescheduled, the rescheduled assessment may be unannounced;

2. The Department of Human Services may automatically assign the agency a Program Assessment score of zero (0); or

3. A legal referral may be made for imposing a civil penalty of $50 for each day of the continuing violation and may subject the violator to other legal enforcement actions as set forth in Chapter 1240-04-05, which may include, but are not limited to, probation, denial, or revocation of the license.

(d) The method used to calculate the rating assigned to the component area of Program Assessment shall be determined as follows:

1. If the lowest rated classroom score is between zero (0.00) and two and ninety-nine hundredths (2.99), the agency shall be assigned the lowest rated classroom score as the overall rating in the component area of Program Assessment.

Example: The center has rated classroom scores of 2.0, 3.0 and 3.5. The overall rating assigned to the component area is determined by the lowest score that falls below 3.0. In this example, the overall rating for the component area is two (2.0).

2. If the lowest rated classroom score is between three (3.00) and seven (7.00), the overall rating assigned to the agency in the component area of the Program Assessment shall be an average calculated by totaling all rated classroom scores and dividing this total by the total number of rated classrooms.

Example: The center has rated classroom scores of 3.5, 4.0 and 4.5. The overall rating assigned to the
component area is determined by the average score of the three (3) classrooms. In this example, the total of the scores is twelve (12.0). This total is divided by the three (3) classroom scores for an average of four (4.0). The overall rating for the component area is four (4.0).

(2) Program Re-Assessment.

(a) Program Re-Assessment is available in the following circumstances:

1. When requested by a child care agency, prior to the Intradepartmental Review provided for in Rule 1240-04-07-.08(3), to address any new or changed conditions that occurred since the date of the agency’s last completed assessment.

   (i) The child care agency shall be responsible for any and all costs, as determined by the Department, associated with this Program Re-Assessment which shall be paid in advance of the Program Re-Assessment.

   (ii) Bonus Payments.

      (I) During the period of the re-assessment, the availability / amount of any bonus payments made by the Department pursuant to 1240-04-07-.07(7)(b) shall be determined by the results of the most recently completed assessment.

      (II) Following completion of the re-assessment, the availability / amount of any bonus payments made by the Department shall be determined by the results of the re-assessment.

   (iii) The results of any Program Re-Assessment conducted pursuant to the provisions of this subparagraph:

      (I) Shall become effective immediately upon the Department’s completion of the Program Re-Assessment and shall replace, in their entireties, any prior results for program areas which were reassessed; and

      (II) Shall not be subject to the appeal process set forth in Rule 1240-04-07-.08.

2. When requested by a child care agency following Intradepartmental Review, as an alternative to the administrative hearing provided for in Rule 1240-04-07-.08(4), to address any new or changed conditions that occurred since the date of the agency’s last completed assessment. A Program Re-Assessment requested by the child care agency pursuant to this paragraph (2) shall be subject to all provisions specified in part 1 above.

3. When, upon receiving the results of its report card evaluation, the child care agency chooses to appeal the results, pursuant to Rule 1240-04-07-.08, and the appeal results in a Program Re-Assessment due to a finding that the initial assessment conducted by the Department, or some part thereof, was invalid.

Current through rules effective April 2014.
(i) The Program Re-Assessment conducted pursuant to this part 3 shall be provided at the expense of the Department.

(ii) The Program Re-Assessment shall be conducted according to the policies and procedures established by the Department and may be limited to the items found to be invalid on the initial assessment.

(iii) Bonus Payments.

(I) During the period of the re-assessment conducted pursuant to this part 3, the availability / amount of any bonus payments made by the Department shall be determined by the results of the most recently completed assessment.

(II) Following completion of the re-assessment, the availability / amount of any bonus payments made by the Department shall be determined by the results of the re-assessment.

(iv) The results of any Program Re-Assessment conducted pursuant to the provisions of this subparagraph:

(I) Shall become effective immediately upon the Department’s completion of the Program Re-Assessment and shall replace, in their entireties, any prior results for program areas which were reassessed; and

(II) For the Program Re-Assessment conducted pursuant to this part 3, the appeal process of Rule 1240-04-07-.08 shall be available.

Tenn. Comp. R. & Regs. 1240-04-07-.05

1240-04-07-.05. CHILD CARE CENTERS.

(1) Component Areas.

(a) Director Qualifications;

(b) Professional Development;

(c) Early Learning;

(d) Parent/Family Involvement;

Current through rules effective April 2014.
(e) Ratio and Group Size;

(f) Staff Compensation; and

(g) Program Assessment.

(2) Level One Criteria

(a) Director Qualifications.

1. High School diploma or an equivalent approved by the Department of Education;

2. Thirty (30) hours of pre-service orientation training, including age specific training, inclusion of children with special needs, and business management/administration;

3. An annually updated Professional Development Plan (PDP); and

4. One (1) of the following:

   (i) Five (5) years of experience in early (child) care and/or education, with four (4) years experience administering an early (child) care and/or education program; or

   (ii) Beginning October 1, 2009, a Program Administrators Credential.

5. Level one child care center director qualifications summary chart:

<table>
<thead>
<tr>
<th>High School Diploma or approved equivalent; and</th>
</tr>
</thead>
<tbody>
<tr>
<td>Thirty (30) hours pre-service orientation training; and</td>
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</tr>
<tr>
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</tr>
<tr>
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</tr>
<tr>
<td>Effective October 1, 2009 a Program Administrators Credential</td>
</tr>
</tbody>
</table>

Current through rules effective April 2014.
(b) Professional Development.

1. All teaching staff shall have a minimum of a high school diploma or an equivalent approved by the Department of Education;

2. At least 50% of the teaching staff, employed at the agency for at least one hundred (120) days, shall have an annually updated Professional Development Plan (PDP) and training hours shall support the goals of the plan;

3. Ten percent (10%) of the teaching staff shall have thirty (30) hours of early childhood education training through TECTA orientation, a Tennessee Technology Center, or, as approved by the Department, equivalent training on a standardized curriculum specific to age group/setting which includes working with children with special needs; and

4. All teaching staff shall annually receive at least three (3) training hours approved by the Department in addition to the minimum training hours required by department regulations.

(c) Developmental Learning.

1. Providers shall maintain copies of the applicable developmental learning standards on site and available to staff.

   (i) TN-ELDS: For directors and teaching staff of children zero to sixty (0 to 60) months.

   (ii) School-age Developmental Learning Standards: For directors and teaching staff of children over sixty (60) months.

2. The director and fifty percent (50%) of teaching staff shall participate in three (3) hours of DHS-approved training on the applicable developmental learning standards.

   (i) At the time of the annual licensing evaluation, the director and fifty percent (50%) of the teaching staff who have been employed at least one hundred twenty (120) days must have received this training within the past three (3) years.

   (ii) Substitutes who have acted as caregivers less than two hundred (200) hours in the previous calendar year shall be exempt from this requirement.

3. The director shall observe and document the use of the applicable developmental learning standards as specified above.

Current through rules effective April 2014.
(d) Parent/Family Involvement.

1. A bulletin board updated at least quarterly shall be used for communications and announcements to parents;

2. A written communication shall be provided to parents quarterly;

3. One group parent meeting for all parents of enrolled children shall be offered and documented per licensing year;

4. One individual parent conference that focuses upon the child’s developmental status or needs shall be offered and documented per licensing year and

5. The provider shall complete one (1) additional item from the three (3) star category.

(e) Ratio and Group Size.

1. The child care agency must meet the following adult:child (A:C) ratios and group sizes:

<table>
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<tr>
<th>Age</th>
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<th>Group Size</th>
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</tr>
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<td>1:9</td>
<td>18</td>
</tr>
<tr>
<td>(v) 4 yrs.</td>
<td>1:13</td>
<td>20</td>
</tr>
</tbody>
</table>
2. The adult:child ratio in a multi-age grouping shall be determined by the age of the majority of the children in the group unless the group contains an infant, in which case the adult:child ratio for infants shall always be maintained. If the ages of the children are evenly divided and, thus, there is no majority age, the adult:child ratio for the group shall be determined by the adult:child ratio required in a single age grouping of the youngest child in the group.

(f) Staff Compensation.

1. A pay scale for teaching staff must be established; and

2. At least two (2) of the following employee benefits must be provided:

   (i) Payment of individual professional membership or association fees;

   (ii) Insurance supplement;

   (iii) Paid leave (e.g., sick, vacation, holiday, personal, family, bereavement);

   (iv) Reduced fee to staff for child care services;

   (v) Money or cash equivalent bonuses (e.g., gift cards);

   (vi) Insurance (e.g., health, life, accident, disability, dental, vision);

   (vii) Tuition for academic education;

   (viii) Paid participation in staff development/training (within federal and state law);

   (ix) Retirement fund (e.g., 401k);

   (x) Flex time (within federal and state law);

Current through rules effective April 2014.
(xi) Differential shift pay.

(g) Program Assessment.

1. The total average Program Assessment score, as determined in accordance with this chapter, is four (4.0) to four and forty-nine hundredths (4.49); and

2. Following an agency’s annual assessment, an improvement plan based on the agency’s Assessment Results Report shall be developed.

(3) Level Two Criteria.

(a) Director Qualifications.

1. High School diploma or an equivalent approved by the Department of Education;

2. Thirty (30) hours of pre-service orientation training, including age specific training, children with special needs, and business management/administration;

3. An annually updated Professional Development Plan (PDP); and

4. One (1) of the following:

   (i) Eight (8) years of experience in early (child) care and/or education with four (4) years experience administering an early care and/or education program;

   (ii) A bachelor’s degree or higher in a relevant area (including early childhood education, child development, education, liberal arts, business administration, human ecology and/or consumer sciences) and five (5) years of experience in early (child) care and/or education; or

   (iii) Beginning October 1, 2009, a Program Administrator Credential.

5. Level two child care center director qualifications summary chart:

  High School Diploma or approved equivalent; and

  Thirty (30) hours of pre-service orientation training including age specific training, inclusion of children with special needs, and business management/administration; and
Annually updated Professional Development Plan (PDP); and

One (1) of the following:

Eight (8) years experience in early care and/or education with four (4) years experience administering an early care and/or education program; or

Bachelor’s degree or higher in a relevant area (including early childhood education, child development, education, liberal arts, business administration, human ecology and/or consumer sciences) and five (5) years of experience in early care and/or education; or

Effective October 1, 2009 a Program Administrators Credential

(b) Professional Development.

1. All teaching staff shall have a high school diploma or an equivalent approved by the Department of Education;

2. At least seventy-five percent (75%) of the teaching staff, employed at the agency for at least one hundred twenty (120) days, shall have an annually updated Professional Development Plan (PDP) and training hours that support the goals of the plan; and

3. At least twenty-five percent (25%) of teaching staff shall have one (1) of the following:

   (i) Three (3) years of experience in early (child) care and/or education and thirty (30) hours of early childhood education training through TECTA orientation, a Tennessee Technology Center, or, as approved by the Department, equivalent training on a standardized curriculum specific to age group/setting that includes working with children with special needs, or documented enrollment therein; or

   (ii) Documentation of enrollment from an instructor showing annual progression in a Child Development Associate credential or Early Childhood Technical Certificate [minimum of eighteen (18) cumulative credit hours awarded by an accredited academic institution] program; and

4. All teaching staff shall annually receive at least three (3) training hours approved by the Department in addition to the minimum training hours required by department regulations.

(c) Developmental Learning.

Current through rules effective April 2014.
1. Providers shall maintain copies of the applicable developmental learning standards on site and available to staff.

   (i) TN-ELDS: For directors and teaching staff of children zero to sixty (0 to 60) months.

   (ii) School-age Developmental Learning Standards: For directors and teaching staff of children over sixty (60) months.

2. The director and seventy-five percent (75%) of teaching staff shall participate in three (3) hours of DHS approved training on the applicable developmental learning standards.

   (i) At the time of the annual licensing evaluation, the director and seventy-five percent (75%) of the teaching staff who have been employed at least one hundred twenty (120) days must have received this training within the past three (3) years.

   (ii) Substitutes who have acted as caregivers less than two hundred (200) hours in the previous calendar year shall be exempt from this requirement.

3. The director shall observe and document the use of the applicable developmental learning standards as specified above.

(d) Parent/Family Involvement.

1. A bulletin board updated at least quarterly shall be used for communications and announcements to parents;

2. A written communication shall be provided to parents every two months;

3. One group parent meeting for all parents of enrolled children shall be offered and documented per licensing year;

4. One individual parent conference that focuses upon the child’s developmental status or needs shall be offered and documented per licensing year;

5. Parent education handouts shall be provided to all parents on a variety of issues pertinent to the parent and child; and

   Examples:

   Speech and Language Development, Toilet Learning, Healthy Snacks, Tips for Dealing with Challenging Behaviors, Healthy Habits, Immunization Information, Preventing Child Abuse, Activities that Promote Development (available for different ages), Special Needs and Inclusion, and Strengthening Families.

Current through rules effective April 2014.
Program Strategies: Facilitate friendships and mutual support; Strengthen parenting; Respond to family crises; Link families to services and opportunities; Facilitate children’s social and emotional development; Observe and respond to early warning signs of child abuse or neglect; Value and support parents. Handouts related to topics such as these are available from CCR&R and TECTA.

6. The provider shall complete two (2) additional items from the Three (3) Star category.

(e) Ratio and Group Size.

1. The child care agency must meet the following adult:child (A:C) ratios and group sizes:

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<td>(v) 4 yrs.</td>
<td>1:13</td>
<td>20</td>
</tr>
<tr>
<td>(vi) 5 yrs., not in Kindergarten</td>
<td>1:16</td>
<td>20</td>
</tr>
<tr>
<td>(vii) K-8 yrs.</td>
<td>1:18</td>
<td>25</td>
</tr>
<tr>
<td>(viii) 9-12 yrs.</td>
<td>1:20</td>
<td>25</td>
</tr>
</tbody>
</table>

Current through rules effective April 2014.
2. The adult:child ratio in a multi-age grouping shall be determined by the age of the majority of the children in the group unless the group contains an infant, in which case the adult:child ratio for infants shall always be maintained. If the ages of the children are evenly divided, and, thus there is no majority age, the adult:child ratio for the group shall be set by the adult:child ratio required in a single age grouping of the youngest child in the group.

(f) Staff Compensation.

1. A pay scale for teaching staff shall be established; and

2. At least three (3) of the following employee benefits shall be provided:

   (i) Payment of individual professional membership or association fees;

   (ii) Insurance supplement;

   (iii) Paid leave (e.g., sick, vacation, holiday, personal, family, bereavement);

   (iv) Reduced fee to staff for child care services;

   (v) Money or cash equivalent bonuses (e.g., gift cards);

   (vi) Insurance (e.g., health, life, accident, disability, dental, vision);

   (vii) Tuition for academic education;

   (viii) Paid participation in staff development/training (within federal and state law);

   (ix) Retirement fund (e.g., 401k);

   (x) Flex time (within federal and state law);

   (xi) Differential shift pay.

(g) Program Assessment.

Current through rules effective April 2014.
1. The total average Program Assessment score, as determined in accordance with this chapter, shall be four and fifty hundredths (4.50) to four and ninety-nine hundredths (4.99); and

2. Following an agency’s annual assessment, an improvement plan based on the agency’s Assessment Results Report shall be developed.

(4) Level Three Criteria.

(a) Director Qualifications.

1. Twenty (20) hours of training annually, including the Department’s annual licensing training requirements for directors;

2. An annually updated Professional Development Plan (PDP); and

3. One (1) of the following:

   (i) High School diploma or an equivalent approved by the Department of Education with current Child Development Associate credential or Early Childhood Technical Certificate [minimum of eighteen (18) cumulative credit hours awarded by an accredited academic institution] or equivalent and seven (7) years of experience administering an early care and/or education program; or

   (ii) Associates degree in relevant area (including early childhood education, child development, education, liberal arts, business administration, human ecology, or consumer sciences) and four (4) years experience administering an early care and/or education program; or

   (iii) Relevant bachelor’s degree or higher (including early childhood education, child development, education, liberal arts, business administration, human ecology and/or consumer sciences) and two (2) years experience administering an early child care and/or education program; or

   (iv) Beginning October 1, 2009, a Program Administrator Credential.

4. Level three child care center director qualifications summary chart:

   Twenty (20) hours of training annually, including the Department’s annual licensing training requirements for Directors; and

   Annually updated Professional Development Plan (PDP); and

   One (1) of the following:

Current through rules effective April 2014.
High School diploma or approved equivalent with current Child Development Associate credential or Early Childhood Technical Certificate [minimum of eighteen (18) cumulative credit hours awarded by an accredited academic institution] or equivalent and seven (7) years of experience administering an early care and/or education program; or

Associates Degree in relevant area (including early childhood education, child development, education, liberal arts, business administration, human ecology, or consumer sciences) and four (4) years experience administering an early care and/or education program; or

Relevant Bachelor’s degree or higher (including early childhood education, child development, education, liberal arts, business administration, human ecology and/or consumer sciences) and two (2) years experience administering an early child care and/or education program; or

Effective October 1, 2009 a Program Administrators Credential.

(b) Professional Development.

1. All teaching staff shall have a high school diploma or an equivalent approved by the Department of Education;

2. All teaching staff, employed at the agency for at least one hundred twenty (120) days, shall have an annually updated Professional Development Plan (PDP) and training hours that support the goals of the plan;

3. The agency shall have a written plan for transitioning children affected by teaching staff turnover;

4. All teaching staff shall receive at least six (6) hours of annual training approved by the Department in addition to the minimum training hours required by department regulations; and

5. Fifty percent (50%) of teaching staff shall have one (1) of the following:

   (i) Four (4) years experience in an early (child) care and/or education program and documented enrollment in TECTA orientation or equivalent training as approved by the Department;

   (ii) Three (3) years experience in an early (child) care and/or education program and documentation of enrollment from an instructor showing annual progression in a Child Development Associate credential or Early Childhood Technical Certificate [minimum of eighteen (18) cumulative credit hours awarded by an accredited academic institution] program or equivalent;

   (iii) Two (2) years experience in an early (child) care and/or education program and a current Child Development Associate credential or Early Childhood Technical Certificate [minimum of eighteen (18) cumulative credit hours awarded by an accredited academic institution] or equivalent;

Current through rules effective April 2014.
(iv) One (1) year experience in an early (child) care and/or education program and associates degree in relevant field;

(v) Bachelor’s degree or higher in relevant field. For purposes of the provisions of this item, the term “relevant field” is defined as a degree in early childhood education, child development, education, liberal arts, business administration, human ecology, and/or consumer sciences, or a degree in any field with a minimum of six (6) semester hours in any of these listed fields.

(c) Developmental Learning.

1. Providers shall maintain copies of the applicable developmental learning standards on site and available to staff.

   (i) TN-ELDS: For directors and teaching staff of children zero to sixty (0 to 60) months.

   (ii) School-age Developmental Learning Standards: For directors and teaching staff of children over sixty (60) months.

2. The director and one hundred percent (100%) of teaching staff shall participate in three (3) hours of DHS-approved training on the applicable developmental learning standards.

   (i) At the time of the annual licensing evaluation, the director and one hundred percent (100%) of the teaching staff who have been employed at least one hundred twenty (120) days must have received this training within the past three (3) years.

   (ii) Substitutes who have acted as caregivers less than two hundred (200) hours in the previous calendar year shall be exempt from this requirement.

3. The director shall observe and document the use of the applicable developmental learning standards as specified above.

(d) Parent/Family Involvement.

1. A bulletin board updated at least quarterly shall be used for communications and announcements to parents;

2. A written communication shall be provided to parents monthly;

3. One group parent meeting for all parents of enrolled children shall be offered and documented per licensing year;

Current through rules effective April 2014.
4. One individual parent conference that focuses upon the child’s developmental status or needs shall be offered and documented per licensing year;

5. Parent education handouts shall be provided to all parents on a variety of issues pertinent to the parent and child;

Examples:

Speech and Language Development, Toilet Learning, Healthy Snacks, Tips for Dealing with Challenging Behaviors, Healthy Habits, Immunization Information, Preventing Child Abuse, Activities that Promote Development (available for different ages), Special Needs and Inclusion, and Strengthening Families Program Strategies: Facilitate friendships and mutual support; Strengthen parenting; Respond to family crises; Link families to services and opportunities; Facilitate children’s social and emotional development; Observe and respond to early warning signs of child abuse or neglect; Value and support parents. Handouts related to topics such as these are available from CCR&R and TECTA.

6. One project or activity involving families in the child care center shall be offered and documented;

7. One parent education training per licensing year to all families receiving service such as child development stages, creative curriculum, infant and toddler curriculum, or age appropriate behavior management shall be offered and documented;

8. A list of current community resources for enrolling parents shall be provided;

9. Parents shall be offered an annual opportunity to evaluate the curriculum, structure, and parent involvement aspects of the program; and

10. A Parent Advisory Council that meets at least two (2) times per year to help implement and improve plans concerning parental involvement, curriculum, and program structure shall be established and maintained, and meetings shall be documented.

(e) Ratio and Group Size

1. The child care agency must meet the following adult:child (A:C) ratios and group sizes:

<table>
<thead>
<tr>
<th>Age</th>
<th>A:C Ratio</th>
<th>Group Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Infant</td>
<td>1:4</td>
<td>8</td>
</tr>
</tbody>
</table>

Current through rules effective April 2014.
2. The adult:child ratio in a multi-age grouping shall be determined by the age of the majority of the children in the group unless the group contains an infant, in which case the adult:child ratio for infants shall always be maintained. If the ages of the children are evenly divided and, thus, there is no majority age, the adult:child ratio for the group shall be set by the adult:child ratio required in a single age grouping of the youngest child in the group.

(f) Staff Compensation.

1. A pay scale for all staff shall be established;

2. A pay scale for teaching staff which is tied to the employee’s education/training and longevity in child care/early childhood services shall be established; and

3. At least four (4) of the employee benefits listed below shall be provided:

   (i) Payment of individual professional membership or association fees;

Current through rules effective April 2014.
(ii) Insurance supplement;

(iii) Paid leave (e.g., sick, vacation, holiday, personal, family, bereavement);

(iv) Reduced fee to staff for child care services;

(v) Money or cash equivalent bonuses (e.g., gift cards);

(vi) Insurance (e.g., health, life, accident, disability, dental, vision);

(vii) Tuition for academic education;

(viii) Paid participation in staff development/training (within federal and state law);

(ix) Retirement fund (e.g., 401k);

(x) Flex time (within federal and state law);

(xi) Differential shift pay.

(g) Program Assessment.

1. Total average Program Assessment score, as determined in accordance with this chapter, shall be at least five (5.0); and

2. Following an agency’s annual assessment, an improvement plan based on the agency’s Assessment Results Report shall be developed.

Tenn. Comp. R. & Regs. 1240-04-07-.06

1240-04-07-.06. FAMILY CHILD CARE HOMES AND GROUP CHILD CARE HOMES.

(1) Component Areas.

(a) Professional Development;

(b) Early Learning;

Current through rules effective April 2014.
(c) Parent/Family Involvement;

(d) Business Management; and

(e) Program Assessment.

(2) Level One Criteria.

(a) Professional Development.

1. Primary caregivers and administrators, employed at the agency for at least one hundred twenty (120) days, shall have an annually updated Professional Development Plan (PDP) and training hours that support the goals of the plan;

2. The primary caregiver shall have thirty (30) hours of family child care training or documented enrollment therein through TECTA, a Tennessee Technology Center, National Association for Family Child Care Foundation accreditation training, or other training as approved by the Department; and

3. One (1) of the following:

   (i) Complete ten (10) hours of annual training in addition to the thirty (30) hours of training required in part 2 above and the minimum training hours required by department regulations;

   (ii) Complete thirty (30) cumulative hours towards the Child Development Associate Credential; or

   (iii) Complete six (6) cumulative credit hours toward an Early Childhood Technical Certificate awarded by an accredited academic institution.

(b) Developmental Learning.

1. Primary caregivers shall maintain copies of the applicable developmental learning standards on site and available to staff.

   (i) TN-ELDS: For primary caregivers and teaching staff of children zero to sixty (0 to 60) months.

   (ii) School-age Developmental Learning Standards: For primary caregivers and teaching staff of school-age only programs (all children over sixty (60) months).

2. Fifty percent (50%) of teaching staff, including the primary caregiver, shall participate in three (3) hours
of DHS approved training on the applicable developmental learning standards.

(i) At the time of the annual licensing evaluation, fifty percent (50%) of teaching staff, including the primary caregiver, who have been employed at least one hundred twenty (120) days must have received this training within the past three (3) years.

(ii) Substitutes who have acted as caregivers less than two hundred (200) hours in the previous calendar year shall be exempt from this requirement.

3. The primary caregiver shall observe and document the use of the applicable developmental learning standards as specified above.

4. In programs with a single caregiver, the use of the applicable developmental learning standards shall be documented annually.

(c) Parent/Family Involvement.

1. An orientation meeting shall be held for parents / family / children new to the agency;

2. A written communication shall be provided to parents quarterly;

3. One individual parent conference that focuses upon the child’s developmental status or needs shall be offered and documented per licensing year;

4. Effective January 1, 2010, a bulletin board updated at least quarterly shall be used for communications and announcements to parents; and

5. Effective January 1, 2010, the provider shall complete one (1) additional item from the Three (3) Star category.

(d) Business Management.

A parent packet shall be provided with the following:

1. Personalized contracts between the child care agency and the parent;

2. The child care agency’s policies;

3. The child care agency’s philosophy;

Current through rules effective April 2014.
4. Parent resources; and

5. If children with special needs are enrolled or are applying for enrollment, information on resources for such children.

(e) Program Assessment.

1. The total average Program Assessment score, as determined in accordance with this chapter, is four (4.0) to four and forty-nine hundredths (4.49); and

2. Following an agency’s annual assessment, an improvement plan based on the agency’s Assessment Results Report shall be developed.

(3) Level Two Criteria.

(a) Professional Development.

1. Primary caregivers and administrators, employed at the agency for at least one hundred twenty (120) days, shall have an annually updated Professional Development Plan (PDP) and training hours that support the goals of the plan;

2. The primary caregiver shall have thirty (30) hours of family child care training or documented enrollment therein through TECTA, a Tennessee Technology Center, National Association for Family Child Care Foundation accreditation training, or other training as approved by the Department;

3. Every year the primary caregiver shall complete ten (10) hours of training in addition to the thirty (30) hours of training required in subpart (ii) above and the minimum training hours required by department regulations; and

4. One (1) of the following:

   (i) Maintain membership in a family care support group and/or local, state, or national association;

   (ii) Complete ninety (90) cumulative classroom hours toward the Child Development Associate credential; or

   (iii) Complete twelve (12) cumulative credit hours toward an Early Childhood Technical Certificate awarded by an accredited academic institution.

(b) Developmental Learning.
1. Primary caregivers shall maintain copies of the applicable developmental learning standards on site and available to staff.

   (i) TN-ELDS: For primary caregivers and teaching staff of children zero to sixty (0 to 60) months.

   (ii) School-age Developmental Learning Standards: For primary caregivers and teaching staff of school-age only programs (all children over sixty (60) months).

2. Seventy-five percent (75%) of teaching staff, including the primary caregiver, shall participate in three (3) hours of DHS-approved training on the applicable developmental learning standards.

   (i) At the time of the annual licensing evaluation, seventy-five percent (75%) of teaching staff, including the primary caregiver, who have been employed at least one hundred twenty (120) days must have received this training within the past three (3) years.

   (ii) Substitutes who have acted as caregivers less than two hundred (200) hours in the previous calendar year shall be exempt from this requirement.

3. The primary caregiver shall observe and document the use of the applicable developmental learning standards as specified above.

4. In programs with a single caregiver the use of the applicable developmental learning standards shall be documented annually.

(c) Parent/Family Involvement.

1. An orientation meeting shall be held for parents / family / children new to the agency;

2. A written communication shall be provided to parents every two months;

3. One group parent meeting for all parents of enrolled children shall be offered and documented per licensing year;

4. One individual parent conference that focuses upon the child’s developmental status or needs shall be offered and documented per licensing year;

5. Parent education handouts shall be provided to all parents on a variety of issues pertinent to the parent and child;

Examples:

Current through rules effective April 2014.
Speech and Language Development, Toilet Learning, Healthy Snacks, Tips for Dealing with Challenging Behaviors, Healthy Habits, Immunization Information, Preventing Child Abuse, Activities that Promote Development (available for different ages), Special Needs and Inclusion, and Strengthening Families Program Strategies: Facilitate friendships and mutual support; Strengthen parenting; Respond to family crises; Link families to services and opportunities; Facilitate children’s social and emotional development; Observe and respond to early warning signs of child abuse or neglect; Value and support parents. Handouts related to topics such as these are available from CCR&R and TECTA.

6. Effective January 1, 2010, a bulletin board updated at least quarterly shall be used for communications and announcements to parents; and

7. Effective January 1, 2010, the provider shall complete two (2) additional items from the Three (3) Star category.

(d) Business Management.

1. A parent packet shall be provided with the following:

   (i) Personalized contracts between the child care agency and the parent;

   (ii) The child care agency’s policies;

   (iii) The child care agency’s philosophy;

   (iv) Parent resources, and

   (v) If children with special needs are enrolled or applying for enrollment, information on resources for such children.

2. A system for financial and program record-keeping shall be maintained.

(e) Program Assessment.

1. The total average Program Assessment score, as determined in accordance with this chapter, shall be four and fifty hundredths (4.50) to four and ninety-nine hundredths (4.99); and

2. Following an agency’s annual assessment, an improvement plan based on the agency’s Assessment Results Report shall be developed.

(4) Level Three Criteria.

Current through rules effective April 2014.
(a) Professional Development.

1. Primary caregivers and administrators, employed at the agency for at least one hundred twenty (120) days, shall have an annually updated Professional Development Plan (PDP) and training hours that support the goals of the plan;

2. Every year the primary caregiver shall complete twenty (20) hours of training, that is approved by the Department, in addition to the minimum training hours required for licensure by department regulations;

3. The primary caregiver shall maintain membership, and documented participation in, a family care support group and/or local, state, or national association; and

4. One (1) of the following:
   
   (i) The primary caregiver shall hold a current Child Development Associate credential and/or an Early Childhood Technical Certificate with a minimum of eighteen (18) cumulative credit hours awarded by an accredited academic institution, or equivalent credential as approved by the Department. If the primary caregiver does not hold a current Child Development Associate credential or Early Childhood Technical Certificate, the primary caregiver must have an associates degree or higher and two (2) years of documented child care experience in early (child) care and/or other education program;

   (ii) The primary caregiver must have completed all Child Development Associate credential course work and have applied for testing or must have completed testing and be awaiting the Child Development Associate credential results; or

   (iii) The primary caregiver must have completed and submitted all renewal requirements and be awaiting the renewal from Child Development Associate Credential Council.

(b) Developmental Learning.

1. Primary caregivers shall maintain copies of the applicable developmental learning standards on site and available to staff.

   (i) TN-ELDS: For primary caregivers and teaching staff of children zero to sixty (0 to 60) months.

   (ii) School-age Developmental Learning Standards: For primary caregivers and teaching staff of school-age only programs (all children over sixty (60) months).

2. One hundred percent (100%) of teaching staff, including the primary caregiver, shall participate in three (3) hours of DHS approved training on the applicable developmental learning standards.

   (i) At the time of the annual licensing evaluation, one hundred percent (100%) of teaching staff, including the primary caregiver, who have been employed at least one hundred twenty (120) days must
have received this training within the past three (3) years.

(ii) Substitutes who have acted as caregivers less than two hundred (200) hours in the previous calendar year shall be exempt from this requirement.

3. The primary caregiver shall observe and document the use of the applicable developmental learning standards as specified above.

4. In programs with a single caregiver the use of the applicable developmental learning standards shall be documented annually.

(c) Parent/Family Involvement.

1. An orientation meeting shall be held for parents / family / children new to the agency;

2. A written communication shall be provided to parents monthly;

3. One group parent meeting for all parents of enrolled children shall be offered and documented per licensing year;

4. One individual parent conference that focuses upon the child’s developmental status or needs shall be offered and documented per licensing year;

5. Parent education handouts shall be provided to all parents on a variety of issues pertinent to the parent and child;

Examples:

Speech and Language Development, Toilet Learning, Healthy Snacks, Tips for Dealing with Challenging Behaviors, Healthy Habits, Immunization Information, Preventing Child Abuse, Activities that Promote Development (available for different ages), Special Needs and Inclusion, and Strengthening Families Program Strategies: Facilitate friendships and mutual support; Strengthen parenting; Respond to family crises; Link families to services and opportunities; Facilitate children’s social and emotional development; Observe and respond to early warning signs of child abuse or neglect; Value and support parents. Handouts related to topics such as these are available from CCR&R and TECTA.

6. One project or activity involving families in the child care home shall be offered and documented;

7. A list of current community resources for enrolling parents shall be provided;

8. Parents shall be offered an annual opportunity to evaluate the curriculum, structure, and parent involvement aspects of the program; and

Current through rules effective April 2014.
9. Effective January 1, 2010, a bulletin board updated at least quarterly shall be used for communications and announcements to parents.

(d) Business Management.

1. A parent packet shall be provided with the following:

   (i) Personalized contracts between the child care agency and the parent;

   (ii) The child care agency’s policies;

   (iii) The child care agency’s philosophy;

   (iv) Parent resources, and

   (v) If children with special needs are enrolled or applying for enrollment, information on resources for such children.

2. A system for financial and program record-keeping shall be maintained.

3. Orientation for staff substitutes shall be documented.

(e) Program Assessment.

1. The Program Assessment score, as determined in accordance with this chapter, shall be at least five (5.0); and

2. Following an agency’s annual assessment, an improvement plan based on the agency’s Assessment Results Report shall be developed.

Tenn. Comp. R. & Regs. 1240-04-07-.07

1240-04-07-.07. STAR-QUALITY PROGRAM.

(1) The annual evaluation of a child care agency for the issuance of the report card, in accordance with the provisions of this chapter, shall include an evaluation of the agency’s eligibility to voluntarily participate in the Star-Quality Program.

Current through rules effective April 2014.
(2) A newly licensed child care agency shall receive a Star-Quality Report Card after a full year of operation.

(3) Eligibility and Participation.

(a) A child care agency that receives an overall rating, pursuant to Rule 1240-04-07-.03(4), of at least One Star shall be eligible to participate in the Star-Quality Program.

(b) In no event shall an agency be eligible to participate in the Star-Quality Program unless the agency has received a One-Star rating in the Program Assessment component area.

(c) A child care agency that does not wish to participate in the Star-Quality Program shall sign and return the Decline to Participate Statement that is included in the reevaluation application packet.

(d) If, after submitting the Decline to Participate Statement, a child care agency changes its mind about participating in the Star-Quality Program, the agency shall provide to the Department a written request to participate.

(e) A new child care agency receiving an initial license and report card are not evaluated for an overall rating and shall not be eligible to participate in the Star-Quality Program, unless specifically requested by the agency and approved by the Department.

(4) A child care agency that chooses to participate in the Star-Quality Program shall be issued:

(a) A license which denotes the overall rating assigned to the agency; and

(b) A Star-Quality Report Card that details the agency’s rating in each of the report card component areas and provides the agency’s compliance history.

(5) A child care agency that receives a Star-Quality Report Card and a rated license through the Star-Quality Program shall immediately post the current license and the report card in a conspicuous manner that is easily viewable by parents.

(6) Biennial and Triennial Application Fees.

(a) A child care center that has earned two (2) stars in the Star-Quality Program is eligible to pay a biennial licensing fee in place of the annual licensing fee.

(b) A child care center that has earned three (3) stars in the Star-Quality Program is eligible to pay a triennial licensing fee in place of the annual licensing fee.

(c) The availability of the biennial or triennial application fee shall be determined by the Department based upon an overall evaluation of the agency’s capabilities and history and in accordance with the provisions for...
(d) Payment of a biennial or triennial licensing fee will not eliminate the requirement for an annual licensing evaluation.

(7) Child Care Certificate Program.

(a) All licensed child care agencies are eligible to receive at least the base rate of reimbursement paid through the Child Care Certificate Program.

(b) A licensed child care agency that is eligible for and chooses to participate in the Star-Quality Program is eligible to receive bonus payments through the Child Care Certificate Program as indicated below:

1. Agencies attaining a rating of “One Star” shall receive the base rate plus five percent (5%) of the base rate as a bonus payment.

2. Agencies attaining a rating of “Two Stars” shall receive the base rate plus fifteen percent (15%) of the base rate as a bonus payment.

3. Agencies attaining a rating of “Three Stars” shall receive the base rate plus twenty percent (20%) of the base rate as a bonus payment.

(8) Change in Star Rating.

(a) Licensing enforcement actions for non-compliance with basic licensure rules that occur at any point throughout the licensing-year cycle can result in the loss of stars that were earned in the previous evaluation and/or can disqualify the agency from receiving stars that might have otherwise been earned in a new evaluation.

(b) Licensing enforcement actions that can disqualify the agency from retaining / earning a star rating are the following:

1. Being placed on probation;

2. Having all or part of the license suspended by the Department (excluding voluntary suspension by the agency for the purpose of making immediate correction);

3. Being fined with one (1) major civil penalty; or

4. Being fined with five (5) or more minor civil penalties.

Current through rules effective April 2014.
(c) The star rating which results from a licensing enforcement action shall take effect immediately following the completion of due process provided for in Rule 1240-04-05-.04.

(d) The star rating resulting from a licensing enforcement action shall last for a period of six (6) consecutive months, so long as no subsequent licensing enforcement action occurs during the six (6) months which results in an extension of the penalty period.

(e) An agency is not eligible for bonus payments during the six (6) month penalty period.

(f) At the end of the six (6) consecutive months, an agency shall be entitled to the most recently earned star rating and the associated bonus payments, so long as the agency had not been subject to an additional licensing enforcement action during the penalty period. The star rating shall be restored to the agency’s records.

(9) A child care agency shall not be eligible to participate in the Star-Quality Program if any of the following occurred between the date of the agency evaluation and the date the rated license through the Star-Quality Program is issued by the Department:

(a) The child care agency has been assessed with a major civil penalty;

(b) The child care agency has been assessed with five (5) or more minor civil penalties;

(c) The child care agency has been subject to probation or a suspension, denial or revocation of its license.

Tenn. Comp. R. & Regs. 1240-04-07-.08

1240-04-07-.08. APPEAL PROCESS.

(1) Upon receiving its results, a child care agency may choose to appeal any part of its report card evaluation, including:

(a) The rating of any component area; and/or

(b) The overall agency rating.

(2) Changes made within, or by, the agency after the date of the last complete licensing evaluation and/or the validity of the evaluation instrument used to conduct the agency’s Program Assessment shall not be considered in the appeal process.

(3) Intradepartmental Review.

Current through rules effective April 2014.
The appeal process shall begin with the request for an Intradepartmental Review, to be conducted according to the policies and procedures established by the Department.

(a) The request for an Intradepartmental Review shall be in writing and shall include:

1. A statement that identifies the specific information and/or rating that is in dispute;

2. A statement that identifies the basis upon which the agency is alleging that an error has occurred;

3. Supporting documentation with the written request; and

4. If the information required by this subparagraph (a) is not provided by the child care agency, the appeal may be dismissed at the sole discretion of the Department.

(b) Issues considered during the Intradepartmental Review shall be limited to:

1. Whether, at the time of the licensing evaluation, the agency was provided proper credit for compliance with the criteria required in each of the report card component areas; and/or

2. Whether the agency’s rating was otherwise correctly calculated.

(c) The written request for Intradepartmental Review must be received by the Department within twenty (20) business days following the date of mailing of the notice of the report card evaluation to the child care agency.

(d) Intradepartmental Review is an informal process not subject to the contested case provisions of the Administrative Procedures Act, T.C.A. §§ 4-5-301 et seq. and shall precede, and must be completed before, any Administrative Hearing.

(e) In conducting the Intradepartmental Review, the Department may take any of the following actions as deemed appropriate in its discretion:

1. Request additional information from the child care agency and/or third parties;

2. Examine additional documentation from the child care agency and/or third parties; and/or

3. Conduct an informal hearing, not subject to the provisions of T.C.A. §§ 4-5-301 et seq., that may include statements from the child care agency and/or third parties.

(f) The Department shall complete the review and render a written decision to the child care agency within forty-five (45) business days of receipt by the Department of the written request for review.

Current through rules effective April 2014.
(g) Bonus Payments.

1. During the Intradepartmental Review process, the agency can elect to receive its bonus payments based upon the results of the previous report card evaluation or based upon the currently disputed report card evaluation.

2. If the agency chooses to receive bonus payments based upon the results of the previous report card evaluation and the Intradepartmental Review does not result in an increase to the agency’s rating, the agency will be required to refund to the Department the amount of the overpayment, which may be accomplished through recoupment by the Department of future amounts owed to the child care agency.

3. If the agency chooses to receive bonus payments based upon the results of the currently disputed report card evaluation and the Intradepartmental Review results in an increase to the agency’s rating which warrants an increase in the amount of the bonus payment, the Department will pay to the agency the difference between the two amounts that accrued during the Intradepartmental Review process.

(h) Upon completion of the Intradepartmental Review, the agency may request either of the following:

1. If dissatisfied with the results of the Intradepartmental Review, an Administrative Hearing, as provided for in paragraph (4) below; or

2. A Program Reassessment, as provided for in Rule 1240-04-07-.04(2) above, after which an Administrative Hearing shall no longer be available.

(i) Upon completion of the Intradepartmental Review, the agency shall receive the rating resulting from the review process, as well as the certificate payments that are commensurate with that rating.

(4) Administrative Hearing.

(a) A request for Administrative Hearing must be submitted to the Department by the agency within ten (10) business days after the mailing date of the Department’s written decision from the Intradepartmental Review.

(b) The issues addressed in the Administrative Hearing are limited to the issues raised during the Intradepartmental Review.

(c) The Administrative Hearing shall be conducted as a contested case proceeding by the Department’s Appeals and Hearings Division according to T.C.A. §§ 4-5-301 et seq.

(d) The hearing officer shall render a written decision within thirty (30) business days after the hearing and shall send a copy of such decision to the Department and to the child care agency.

Current through rules effective April 2014.
(e) Bonus Payments.

1. If the agency requests an Administrative Hearing, the agency’s bonus payments shall be based upon the results of the most recently completed assessment.

2. If the Administrative Hearing results in an increase to the agency’s report card rating which warrants an increase in the amount of the bonus payment, the Department will pay to the agency the difference between the two amounts that accrued during the Administrative Hearing process.

(5) Issuance of a New Report Card and/or Rated License.

(a) If the results of any process established in paragraphs (3) and (4) above should require the issuance of a new report card, such report card shall be issued to the child care agency within thirty (30) business days of issuance of the written decision.

(b) If the results of any process indicated in paragraphs (3) and (4) above should require a change to the overall rating of the child care agency, a new license with the modified rating shall be issued to the child care agency within thirty (30) business days of issuance of the written decision.

(c) Immediately upon receipt of the new report card and/or rated license, the child care agency shall post the report card and/or rated license as directed by the Department.
(2) **Provider or Family Day Care Provider** is a person 18 years of age or older who has voluntarily applied to operate, or who is operating, a Registered Family Day Care Home.

(3) **Sponsoring Organization** means an agency that contracts with the Tennessee Department of Human Services to assist in the voluntary registration of family day care providers.

(4) **Certificate Of Registration** refers to a document issued by a sponsoring organization to a family day care provider, acknowledging that the provider is in compliance with applicable rules at a given time.

(5) **Child or Children** means a person under 17 years of age.

(6) **Infant** refers to a child 6 weeks through 15 months of age.

(7) **Toddler** is a child 16 months through 30 months of age.

(8) **Parent** is a term used to refer to a biological or adoptive parent, a guardian, or a custodian or foster parent with primary responsibility for a child.

(9) **Substitute** refers to a person 18 years of age or older who is designated by the provider and approved by the sponsoring organization to provide child care in the provider’s home in the provider’s absence.

(10) **Department** means the Tennessee Department of Human Services.

Tenn. Comp. R. & Regs. 1240-04-12-.03

1240-04-12-.03. RESPONSIBILITIES OF DEPARTMENT.

(1) Responsibility for ensuring that a sponsoring organization complies with these rules rests with the Department of Human Services which shall:

(a) Inspect and monitor the sponsoring organization to determine compliance with applicable rules and contract requirements;

(b) Conduct random inspections of registered family day care homes to ensure compliance with applicable rules;

(c) Provide technical assistance to the sponsoring organization;

(d) Conduct necessary administrative review procedures involving provider appeals; and

Current through rules effective April 2014.
(e) When the Department determines that a provider is operating in violation of applicable rules, the Department shall notify the sponsoring organization. In case of imminent danger or hazard to the health, safety or welfare of any children in a home, the Department shall suspend or revoke a Certificate of Registration unless the sponsoring organization has done so or is in the process of doing so. The provider shall have the right to a fair hearing as provided herein.

Tenn. Comp. R. & Regs. 1240-04-12-.04

1240-04-12-.04. SPONSORING ORGANIZATION’S AUTHORITY.

(1) Sponsoring Organization. By contractual agreement with the Department of Human Services, a sponsoring organization is authorized to:

(a) Register, on voluntary basis, Family Day Care providers with no more than four (4) non-related children within a county or district;

(b) Issue a Certificate of Registration to a Family Day Care provider who is in compliance with applicable rules;

(c) Provide administrative and support services to providers, including but not limited to, technical assistance, training and consultation;

(d) Evaluate and monitor providers with at least one scheduled and one unscheduled visit the first year and one unscheduled visit per year thereafter;

(e) Maintain permanent records on providers as prescribed by the Department of Human Services;

(f) Provide enforcement of the rules concerning standards for registration of family day care providers, including provisions for notice of rights to appeal and implementation of appeal procedures for providers per its contract with the Department; and

(g) Provide a program of outreach and public relations to providers and potential providers regarding applicable rules, to parents of young children regarding availability of day care, and to the general public regarding the program.

(2) Approval Requirements for Sponsoring Organizations.

(a) Execution of a contract with the Department of Human Services constitutes approval of a sponsoring organization to conduct a program of voluntary registration of family day care home providers.

(b) The Department shall conduct an annual Programmatic inspection of the sponsoring organization to determine compliance with applicable provisions of these rules and provisions of the contract with the
(3) Requirements of Sponsoring Organizations

(a) Eligibility.

1. Any public, private not-for-profit, or private for-profit agency or organization may apply to the Department of Human Services to become a family day care sponsoring organization, provided it meets the following eligibility requirements.

2. A sponsoring organization, in order to secure, maintain, or renew a contract to provide registration services for a system of family day care homes shall:

   (i) Demonstrate the capability of providing administrative and support services, including but not limited to inspection, supervision, and monitoring of family day care homes and training, technical assistance, and consultation to registered or applicant providers;

   (ii) Meet the program and fiscal requirements of the contract with the Department of Human Services, including all applicable state and federal regulations; and

   (iii) Comply with all performance provisions and level of service provisions, as specified in the executed contract and its exhibits or appendices.

3. A sponsoring organization shall not be a Child and Adult Care Food Program (CACFP) sponsor to Registered Home Providers which the sponsoring organization regulates.

(b) Administrative Responsibility.

1. The sponsoring organization shall delegate responsibility for day-to-day operations and administration to an executive director or other qualified administrator and clearly specify in writing the respective duties of the governing board or advisory committee and of the executive director or administrator.
(2) Provider Eligibility.

(a) To be approved as a registered family day care provider, the applicant shall:

1. Be at least 18 years of age;

2. Secure two (2) nonrelative references in writing;

3. Have good character and reputation and possess adequate intelligence, stability, and physical stamina to operate a family day care home and to provide good child care;

4. Provide written evidence of sound physical, mental, and emotional health to care for young children, signed by a health care provider; and

5. Demonstrate satisfactory compliance (or good intention to comply) with all applicable requirements of the Department of Human Services.

(b) Before approval, a provider shall submit an application for Family Day Care Home Registration (on a form supplied by the Department of Human Services or a sponsoring organization) to the sponsoring organization.

(c) Upon submitting a completed application and all required information and evidence of compliance, an applicant shall be approved as a Registered Family Day Care Home and will receive a letter to that effect and a Certificate of Registration.

(d) A registration certificate shall be issued to a specific provider at a specific location and is not transferable.

(e) Prior to approval, the provider shall attend at least three (3) hours of orientation to registered child care.

(f) The provider shall notify the sponsoring organization before changing residence.

(g) The registration period shall be three (3) years, at the end of which time the provider will be notified of the need to make application for the next registration period.

(3) Supervision And Provider Requirements.

(a) At least one (1) adult shall be present and supervising the children at all times.
(b) The provider shall not be employed at any other occupation during the hours child care is provided.

(c) In addition to the provider’s related children under nine (9) years of age, a registered provider shall, care for no more than four (4) other children at one time. (See definition of related.)

(d) The total number of children in care at one time (including provider’s related children) shall not exceed seven (7).

(e) The total number of children under three (3) years of age shall not exceed four (4).

(f) Helpers and substitutes shall meet the health requirements.

(g) Any substitute for the provider shall be at least 18 years of age.

(h) Persons in the home shall be of such character and physical and mental status such that children’s health, safety, and welfare are not threatened. No person charged with or convicted of a crime against a child shall be permitted to care for children.

(i) The provider shall have a plan for the care of children in such emergencies as provider illness, injury to or illness of a child, fire, or disaster situation.

(j) After the first year, the provider shall complete at least two (2) hours of training annually.

(4) Records.

(a) When a child is enrolled and before care is provided, a record shall be taken and maintained that includes the following:

1. Child’s name, social history, and health history;

2. Parent(s)’ name(s), address, place of employment, phone number(s) of location during hours of child’s care, name(s) of other(s) to whom child may be released;

3. Name of child’s physician and permission to get medical treatment in an emergency when parent is not available;

4. Current immunizations record; and

5. Description of accidents or serious illnesses occurring while the child is in care (including date, time,
(b) The provider’s record shall include the following:

1. Health provider’s statement;

2. Evidence of a TB test with negative results;

3. Two (2) letters of reference from persons (other than relatives) who know the provider; and

4. Evidence of training hours received.

(c) First aid information shall be available and provider(s) shall be familiar with it.

(d) The Certificate of Registration shall be on display in a conspicuous place during the hours of operation.

(e) Emergency phone numbers shall be posted near the telephone for the following: Parents of Children in Care, Emergency Medical Care, Fire Station, Law Enforcement, Poison Control Center (if available), Rescue Squad, and Child Abuse Referral.

(f) The provider shall give parents receipts of payments if requested.

(5) Children’s Activities.

(a) A variety of age-appropriate activities shall be provided and shall include some of the following on a daily basis:

1. Reading and talking to children;

2. Manipulating toys;

3. Active and quiet play;

4. Indoor and outdoor play; and

5. Rest or sleep.

(b) Equipment and materials shall be made available to the children for all of the above activities.
(c) Television shall be limited to programs suitable for children, and other activities shall be provided for children who do not wish to watch TV. No child shall be required to watch TV.

(d) Infants and toddlers shall not be routinely left in cribs or playpens when they are awake.

(e) Children shall not be subjected to spanking or other means of inflicting pain; to frightening, shaming, or humiliating punishment; to abusive or derogatory language.

(f) The provider shall use positive discipline techniques that are appropriate to the age level and needs of the child, that help a child to learn and maintain self-control and self-esteem and do not relate to physical punishment or deprivation of food, rest, or toileting.

(g) Toilet training shall not be started without communication and agreement with the parent, nor until the child has indicated readiness.

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(green and burgundy)

(o) Children’s Health.

(a) Children’s physical needs shall be met as follows:

1. Children shall be diapered and cleaned as needed.

2. Diapers shall be changed on a cleanable, nonporous surface, which is sanitized after each change with one-quarter (1/4) cup of bleach to one (1) gallon water. Hands must be washed after each change.

3. Children in care seven (7) hours or more shall receive nutritionally balanced meals and snacks: two (2) meals (unless during night hours) and one (1) or two (2) snacks.

4. Infant diets and other special diets shall be prepared in accordance with a physician’s instructions.

5. Formula and food brought from home shall be labeled with the child’s name, Opened baby food shall not be used, and formula remaining in the bottle after feeding shall be discarded.

6. Infants unable to hold a bottle shall be held while fed; bottles shall not be propped.

7. The provider and others shall not smoke while physically interacting with children.

8. Each child shall have an individual crib or mat for sleeping.

9. Sleeping infants under 13 months shall be checked every half hour by touching them. If a child appears to not breathe or is in distress, the provider shall immediately seek emergency medical help.

Current through rules effective April 2014.
(b) Parents of every child enrolled shall be notified if one of the following diseases has been introduced into the home: Hepatitis A, Foodborne outbreaks (food poisoning), Salmonella, Shigella, Measles, Mumps, Rubella, Pertussis, Polio, Hemophilus Influenza Type B, Meningococcal Meningitis. (Providers may want to consult the local health department.)

(c) Prescribed medication shall not be given to a child except under the direction of a physician. Non-prescribed, internal and external medication shall not be given to a child except with the parent’s written authorization. Medications or drugs shall be labeled with the child’s name and specific instruction given for administering them. Administration of medications and noticeable side effects shall be recorded and reported to parents. Medication shall not be handled by children and shall be stored out of children’s reach.

(d) The provider shall notify the parent(s) as soon as possible when their child becomes ill or injured.

(e) The provider shall report any suspected physical, sexual, or emotional abuse or neglect to the local county office of the Department of Human Services.

(7) Communication With Parents And Others.

(a) Parents and inspection authorities, from the sponsoring organization and the Department shall be given immediate access to the home and premises while children are in care.

(b) The provider shall give parent(s) of every child enrolled a copy of these rules.

(c) The provider shall discuss the child’s daily activities, schedule, and progress with the parent(s) on a regular basis.

(d) The provider shall inform parents in writing of the name, address, and phone number of the sponsoring organization.

(e) The provider shall not disclose or knowingly permit the use of any information concerning the child or family except as required by law or regulation.

(f) The provider’s name, address, and other referral information shall be included in the DHS Resource and Referral System unless the provider requests exclusion in writing.

(8) Safety.

(a) The home and furnishings shall present no hazard to the health or safety of children.

(b) A fire drill with the children shall be practiced a minimum of once every three (3) months.

Current through rules effective April 2014.
(c) There shall be at least two (2) doors to the outside that are unblocked exits.

(d) Kerosene or other portable beaters shall not be in use while children are present.

(e) Fuel-burning heaters shall be vented to the outside of the home.

(f) Children shall not be kept in a room that has no window to the outside.

(g) Latches on interior doors shall be such that a child can open the door from the inside of a room or closet.

(h) At least one working smoke detector shall be properly installed on each level of the home.

(i) All unused electrical outlets accessible to children shall be covered with receptacle covers.

(j) All toxic substances, such as medicines, cleaning agents, polishes, bleach, detergents, paints, insecticides, etc., shall be stored out of children’s reach and away from food; all weapons and dangerous utensils and tools shall be stored out of children’s reach.

(k) Floors, walls, ceilings, furniture, equipment, and all surfaces and utensils shall be kept clean and in good repair.

(l) Adequate ventilation, heating, and cooling shall be appropriately provided.

(m) Both hot and cold running water shall be available from an approved source.

(n) Children and caregivers shall have access to a working indoor toilet.

(o) Disposable towels or separate clean hand towels, napping space and clean bedding, shall be provided for each child.

(p) A working telephone shall be available in the house.

(q) A working flashlight shall be available for emergency lighting.

(r) A safe outdoor play area shall be available either adjacent to the home or within safe walking distance.

(s) Hands (children’s and caregivers’) shall be washed frequently; before any food handling, after toileting, and after helping children with toileting.

Current through rules effective April 2014.
(i) Sewage and waste shall be disposed of properly.

(u) Foods shall be stored properly in clean containers, protected from contamination; perishables shall be stored at 45° or below. All food shall be used with children in care. Food shall be prepared in a safe, sanitary manner.

(v) Dishes and utensils shall be either disposable or washed, rinsed, and sanitized properly.

(w) Children’s diapers shall be changed on a clean, nonporous surface, away from the kitchen.

(x) Pets shall be vaccinated in accordance with a veterinarian’s recommendations. Unconfined pets shall not be in with the children on a daily basis.

(y) Wading pools shall not be used unless in compliance with local ordinances. Swimming pools shall be inspected by the local Health Department if used for Day Care; two (2) adults shall be present and supervising when children are swimming.

(z) To be a registered family day care home, a mobile home shall conform to the following description: a “modular” home, 24 feet wide, built after 1974, with front and rear exits, anchored, with wheels removed.

(9) Failure To Meet Requirements And Appeal Procedures.

(a) The sponsoring organization shall review and may deny, suspend, or revoke a certificate if the family day care provider or other person living in the home has been convicted of child abuse or neglect or other crime against children, is under the influence of alcohol or drugs while children are in care, falsified an application or other document, or fails to comply with any other part of these rules.

(b) If the sponsoring organization determines that an applicant is not in compliance with the requirements, the applicant shall be given written notice of the violations by certified mail, return receipt requested, stating violations and citing the specific requirements not met. The applicant shall be given 10 calendar days to make corrections after which a written notice of denial shall be sent to the applicant by the sponsoring organization by certified mail, return receipt requested. The applicant may appeal the denial to the Department as provided in the appeal section of the provider requirements.

(c) When complaints and reports of violations are received, the sponsoring organization shall take the following action;

1. Investigate the allegations (other than those of child abuse/neglect which shall be reported to the Department of Human Services) and require the provider to correct those that are determined to be valid.

2. If during the course of an investigation, the sponsoring organization determines that children are in imminent danger and recommends removal of the children, the Department shall be notified immediately, and the Certificate of Registration shall be suspended. Immediate written notice of the cause for such
suspension together with notice of what must be done to lift the suspension and a reasonable time frame for correction shall be given to the provider. The notice shall also indicate the consequences (revocation) of failure to correct the problem causing suspension. Notice of the right to appeal and the procedures for appeal shall also be given in the notice.

3. If children are not in imminent danger, but the sponsoring organization has substantiated existing violations, the provider shall be given notice of violations and specific requirements violated and opportunity to correct violations within a reasonable time period. The provider shall be required to file with the sponsoring organization a plan of corrective action within 10 days to avoid revocation of the certificate. The notice shall state the consequences of failure to file the corrective action plan (revocation) and shall give notice of the right to appeal and the procedures for appeal.

4. If the causes leading to the notice of violation and/or the suspension are not corrected within a reasonable time, the Certificate of Registration shall be revoked by the sponsoring organization, or by the Department, and the provider shall be sent written notice of such revocation and the basis for revocation by certified mail, return receipt requested. Such notice shall state the effective date of revocation which shall be 90 days from the date of the notice. The notice shall contain notice of the right to appeal and the procedures for appeal.

5. All notices of denial, suspension, or revocation shall be sent by certified mail, return receipt requested and copies of these shall be simultaneously sent to the Department’s Day Care Division.

(d) 1. The provider shall be sent, by certified mail, return receipt requested, written notice of the basis for the denial, suspension, or revocation of the Certificate of Registration by the sponsoring organization, or by the Department if it conducts such action.

2. Within 10 days of the date of receipt of the written notice, the provider must request in writing to the sponsoring organization, or the Department if it took adverse action, an appeal of the decision in order to preserve the right to a fair hearing.

3. The request for appeal shall be acknowledged by the sponsoring organization and the Department within 10 days of receipt. The Hearing shall be conducted by a Hearing Officer designated by the Commissioner of the Department utilizing the provisions of TCA §§4-5-301 through 4-5-323. The Hearing Officer shall enter an initial order which shall be reviewed by a designee of the Commissioner which designee shall enter a final order.

4. Pending appeal and pending the final order, the provider may continue to be registered under an existing Certificate unless the Certificate has been suspended due to imminent danger to the health or safety of children in the care of the provider.

5. The provider shall have the right to be represented by retained counsel in such proceedings.

(e) A provider may not reapply for a Certificate of Registration for a period of 60 days following a denial, suspension, or revocation of a certificate or for such period following entry of a final agency order or final order of a reviewing court.

Current through rules effective April 2014.