

**COMPREHENSIVE REVIEW - CHAPTER 746**  
**Minimum Standards for Child-Care Centers**  
**FINAL DRAFT – April 15, 2017**

*Subchapter A, Purpose, Scope, and Definitions*

*Division 1, Purpose*

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

**DELETE §746.105. What do certain words and terms mean when used in this chapter?**

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

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

*Subchapter A, Purpose, Scope, and Definitions*

*Division 2, Scope*

**NEW §746.111. What types of operations do these minimum standards apply to?**

The minimum standards in this chapter apply to:

- (1) Licensed child-care centers; and
- (2) Any unlicensed child-care center that is subject to Licensing's regulation and requires a license per Chapter 42 of the Human Resources Code.

**NEW §746.113. Who is responsible for complying with these minimum standards?**

- (a) For a licensed child-care center, the permit holder must ensure compliance with all minimum standards in this chapter at all times, with the exception of those minimum standards identified for specific types of child-care programs or activities that the center does not offer. For example, if we license the center to offer only toddler and pre-kindergarten care programs, the center does not have to comply with minimum standards that apply only to infant care, school-age care, get-well care, or nighttime-care programs; however, the center must comply with all other minimum standards.
- (b) For an unlicensed child-care center that is subject to Licensing's regulation, the center's director, owner, or operator or other controlling person who has the ability to influence or direct the center's management, expenditures, or policies must ensure compliance with all minimum standards in this chapter at all times, with the exception of

those minimum standards identified for specific types of child-care programs or activities that the unlicensed center does not offer.

### *Subchapter A, Purpose, Scope, and Definitions*

#### *Division 3, Definitions*

#### **§746.121. What do certain pronouns mean when used in this chapter?**

The following words have the following meanings when used in this chapter:

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

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

#### **§746.123. What do certain words and terms mean when used in this chapter?**

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

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

(2) Administrative and clerical duties--Duties that involve the operation of a child-care center, such as bookkeeping, enrolling children, answering the telephone, and collecting fees.

(3) Admission--The process of enrolling a child in a child-care center. The date of admission is the first day the child is physically present in the center.

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

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

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

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

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

(9) Caregiver--A person who is counted in the child/caregiver ratio, whose duties include the supervision, guidance, and protection of a child. As used in this chapter, a caregiver must meet the minimum education, work experience, and training qualifications required under Subchapter D of this chapter (relating to Personnel). A caregiver is usually an employee, but may also be a substitute, volunteer, or contractor (also see Division 4 of Subchapter D (relating to Substitutes, Volunteers, and Contractors)).

(10) Certified Child-Care Professional Credential--A credential given by the National Early Childhood Program Accreditation to a person working directly with children. The credential is based on assessed competency in several areas of child care and child development.

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

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

(13) Child--An infant, a toddler, a pre-kindergarten age child, or a school-age child.

(14) Child-care center--A child-care facility that is licensed to care for seven or more children for less than 24 hours per day, at a location other than the permit holder's home. If you were licensed before September 1, 2003, the location of the center could be in the permit holder's home.

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

(16) Child Development Associate Credential--A credential given by the Council for Professional Recognition to a person working directly with children. The credential is based on assessed competency in several areas of child care and child development.

(17) Clock hours--An actual hour of documented:

(A) Attendance at instructor-led training, such as seminars, workshops, conferences, early childhood classes, and other planned learning opportunities, provided by an individual/s as specified in §746.1317(a) of this title (relating to Must the training for my caregivers and the director meet certain criteria?); or

(B) Self-instructional training that was created by an individual/s as specified in §746.1317(a) and (b), or self-study training.

(18) Corporal punishment--The infliction of physical pain on a child as a means of controlling behavior. This includes spanking, hitting, slapping, or thumping a child.

(19) Days--Calendar days, unless otherwise stated.

(20) Employee--a person a child-care center employs full-time or part-time to work for wages, salary, or other compensation. Employees are all of the child-care center staff, including caregivers, kitchen staff, office staff, maintenance staff, the assistant director, the director, and the owner, if the owner is ever on site at the center or transports a child.

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

(22) Entrap--A component or group of components on equipment that forms angles or openings that could trap a child's head by being too small to allow the child's body to

pass through, or large enough for the child's body to pass through but too small to allow the child's head to pass through.

(23) Field trips--Activities conducted away from the child-care center.

(24) Food service--The preparation or serving of meals or snacks.

(25) Frequent--More than two times in a 30-day period. Note: For the definition of "regularly or frequently present at an operation" as it applies to background checks, see §745.601 of this title (relating to What words must I know to understand this subchapter?).

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

(27) Group activities--Activities that allow children to interact with other children in large or small groups. Group activities include storytelling, finger plays, show and tell, organized games, and singing.

(28) Health-care professional--A licensed physician, a licensed advanced practice registered nurse (APRN), a licensed vocational nurse (LVN), a licensed registered nurse (RN), or other licensed medical personnel providing health care to the child within the scope of the license. This does not include medical doctors or medical personnel not licensed to practice in the United States.

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

(30) High-school equivalent:

(A) Documentation of a program recognized by the Texas Education Agency (TEA) or other public educational entity in another state, which offers similar training on reading, writing, and math skills taught at the high school level, such as a General Educational Development (GED) certificate; or

(B) Confirmation that the person received home-schooling that adequately addressed basic competencies such as basic reading, writing, and math skills, which would otherwise have been documented by a high-school diploma.

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

(32) Infant--A child from birth through 17 months.

(33) Inflatable--An amusement ride or device, consisting of air-filled structures designed for use by children, as specified by the manufacturer, which may include bouncing, climbing, sliding, or interactive play. They are made of flexible fabric, kept inflated by continuous air flow by one or more blowers, and rely upon air pressure to maintain their shape.

(34) Instructor-led training--Training characterized by the communication and interaction that takes place between the student and the instructor. The training must include an opportunity for the student to interact with the instructor to obtain clarifications and information beyond the scope of the training materials. For such an opportunity to exist, the instructor must communicate with the student in a timely fashion, including answering questions, providing feedback on skills practice, providing guidance or information on additional resources, and proactively interacting with students. Examples of this type of training include, classroom training, web-based on-line facilitated learning, video-conferencing, or other group learning experiences.

(35) Janitorial duties--Those duties that involve the cleaning and maintenance of the child-care center building, rooms, furniture, etc. Cleaning and maintenance include such duties as cleansing carpets, washing cots, and sweeping, vacuuming, or mopping a restroom or a classroom. Sweeping up after an activity or mopping up a spill in a classroom that is immediately necessary for the children's safety is not considered a janitorial duty.

(36) Local sanitation official--A sanitation official designated by the city or county government.

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

(38) Permit is no longer valid--For purposes of this chapter, a permit remains valid through the renewal process. A permit only becomes invalid when your center voluntarily closes or must close because of an enforcement action in Subchapter L of Chapter 745 (relating to Enforcement Actions).

(39) Premises--Includes the child-care center, any lots on which the center is located, any outside ground areas, any outside play areas, and the parking lot.

(40) Regular--On a recurring, scheduled basis. Note: For the definition of "regularly or frequently present at an operation" as it applies to background checks, see §745.601 of this title (relating to What words must I know to understand this subchapter?).

(41) Restrictive device--Equipment that places the body of a child in a position that may restrict airflow or cause strangulation; usually, the child is placed in a semi-seated position. Examples of restrictive devices are car seats, swings, bouncy seats, and high chairs.

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

(43) Sanitize--The use of a product (usually a disinfecting solution) that is registered by the Environmental Protection Agency (EPA) which substantially reduces germs on inanimate objects to levels considered safe by public health requirements. Many bleach and hydrogen peroxide products are EPA-registered. You must follow the product's labeling instructions for sanitizing (paying particular attention to any instructions regarding contact time and toxicity on surfaces likely to be mouthed by children, such as toys and crib rails). For an EPA-registered sanitizing product or disinfecting solution that does not include labeling instructions for sanitizing (a bleach product, for example), you must follow these steps in order:

(A) Washing with water and soap;

(B) Rinsing with clear water;

(C) Soaking in or spraying on a disinfecting solution for at least two minutes.

Rinsing with cool water only those items that children are likely to place in their mouths; and

(D) Allowing the surface or item to air-dry.

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

(45) Self-instructional training--Training designed to be used by one individual working alone and at the individual's own pace to complete lessons or modules. Lessons or modules commonly include questions with clear right and wrong answers. An example of this type of training is web-based training. Self-study training is also a type of self-instructional training.

(46) Self-study training--Non-standardized training where an individual reads written materials, watches a training video, or listens to a recording to obtain certain knowledge that is required for annual training. Self-study training is limited to three hours of annual training per year.

(47) Special care needs--A child with special care needs is a child who has a chronic physical, developmental, behavioral, or emotional condition and who also requires assistance beyond that required by a child generally to perform tasks that are within the typical chronological range of development, including the movement of large and/or small muscles, learning, talking, communicating, self-help, social skills, emotional well-being, seeing, hearing, and breathing.

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

(49) Toddler--A child from 18 months through 35 months.

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

(51) Water activities--Related to the use of swimming pools, splashing/wading pools, sprinkler play, or other bodies of water.

## *Subchapter B, Administration and Communication*

### *Division 1, Permit Holder Responsibilities*

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

You are responsible for the following:

- (1) Developing and implementing your child-care center's operational policies, which must comply with or exceed the minimum standards specified in this subchapter;
- (2) Developing written personnel policies, including job descriptions, job responsibilities, and requirements;
- (3) Making provisions for training that comply with Division 4, Subchapter D of this chapter (relating to Professional Development Personnel);
- (4) Designating a child-care center director who meets minimum standard qualifications and has daily, on-site responsibility for the operation of the child-care center;
- (5) Reporting and ensuring your employees and volunteers report suspected abuse, neglect, or exploitation directly to DFPS without delegating ~~and may not delegate~~ this responsibility, as required by the Texas Family Code, §261.101;
- (6) Ensuring all information related to background checks is kept confidential, as required by the Human Resources Code, §40.005(d) and (e);
- (7) Ensuring parents have the opportunity to visit the child-care center any time during the child-care center's hours of operation to observe their child, program activities, the building, the grounds, and the equipment without having to secure prior approval;

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

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

(10) Reporting to DFPS any Department of Justice substantiated complaints related to Title III of the Americans with Disabilities Act, which applies to commercial public accommodations, ~~to DFPS;~~ and

(11) Ensuring the total number of children in care at the center or away from the center, such as during a field trip, never exceeds the licensed capacity of the center.

### *Subchapter B, Administration and Communication*

#### *Division 2, Required Notifications*

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

You must notify us in writing before:

(1) Changing the address or location of the child care center;

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

(3) Reducing the number of toilets or sinks;

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

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

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

(7) Offering new services, relating to minimum standards found in this chapter, such as a get-well care program, nighttime care, transportation, or field trips;

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

(9) Going out of business; or

(10) There is a change in ownership of a center as specified in §745.437 of this title (relating to What is a change in ownership of an operation?).

### **Helpful Information**

- As events occur or changes are made to the center, health and safety conditions may change. Licensing may need to verify that minimum standard rules related to the changes are in compliance to ensure the continuing safety of children in care.
- Items (2) - (5) require an amended permit before you may provide new services or change your services. Items (1) and (10) require a new application and permit to operate.
- Regarding item (10), a license cannot be bought, sold, or transferred and is only valid for the location/address noted on the license.

**§746.303. What changes must I notify Licensing of changes I make regarding the child-care center's designee, governing body, and or director of my child-care center?**

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

~~(1) Sale or transfer of the child-care center ownership (including but not limited to incorporation of an existing operation);~~

~~(2) The governing body designee of your center that is not a sole proprietorship. The designee for a sole proprietorship is the owner/sole proprietor;~~

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

~~(4) The address of the center's designee or governing body or its designee; and~~

~~(5) The center director.~~

**Helpful Information**

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

**§746.305. What other situations require notification to Licensing?**

**Helpful Information**

- Regarding paragraph (a)(1). ~~Examples of occurrences that may render a child-care center unsafe or unhealthy include sewer backups, flood, fire or storm damage, or the lack of running water.~~
- Notifications to Licensing may be made:
  - Online 24 hours a day at [http://www.dfps.state.tx.us/Contact Us/report\\_abuse.asp](http://www.dfps.state.tx.us/Contact_Us/report_abuse.asp) ;
  - By phone 24 hours a day to the Texas Abuse and Neglect Hotline 1-800-252-5400; or
  - By speaking to a Licensing employee during business hours at the local office. Phone numbers for the local offices can be found at [http://www.dfps.state.tx.us/Child Care/Local Child Care Licensing Offices/default.asp](http://www.dfps.state.tx.us/Child_Care/Local_Child_Care_Licensing_Offices/default.asp) .

*Subchapter B, Administration and Communication  
Division 3, Required Postings*

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

~~(a)~~ You must post in a prominent place the following telephone numbers:

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

(A) Emergency medical services;

(B) Law enforcement; and

(C) Fire department;

(2) Poison control;

(3) The Texas Abuse and Neglect Hotline (1-800-252-5400)~~DFPS child abuse hotline;~~

(4) The local ~~Nearest~~ Licensing office telephone number ~~and address;~~ and

(5) The child-care center telephone number, name, and address, ~~and telephone number.~~

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

### Helpful Information

- Readily available phone numbers help to ensure prompt response/action in an emergency.
- For the nearest Licensing office telephone number go to [www.dfps.state.tx.us/Child\\_Care/Local\\_Child\\_Care\\_Licensing\\_Offices/default.asp](http://www.dfps.state.tx.us/Child_Care/Local_Child_Care_Licensing_Offices/default.asp)

## *Subchapter B, Administration and Communication*

### *Division 4, Operational Policies*

#### **§746.501. What written operational policies must I have?**

(a) You must develop written operational policies and procedures that at a minimum address each of the following:

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

(2) Procedures for the release of children;

(3) Illness and exclusion criteria;

(4) Procedures for dispensing medications, or a statement that medication is not ~~given~~ dispensed;

(5) Procedures for handling medical emergencies;

(6) Procedures for parental notifications;

(7) Discipline and guidance ~~practices~~ that is consistent with Subchapter L of this title (relating to Discipline and Guidance). A copy of Subchapter L may be used for your discipline and guidance policy;

(8) Suspension and expulsion of children;

(9) Safe sleep for infants 12 months old or younger that is consistent with the rules in subchapter H of this chapter (relating to Basic Requirements for Infants) that relate to

sleep requirements and restrictions, including sleep positioning, and crib requirements and restrictions, including mattresses, bedding, blankets, toys, and restrictive devices;

(10) Meals and food service practices;

(11) Immunization requirements for children, including tuberculosis screening and testing if required by your regional Texas Department of State Health Services or local health authority;

~~(10) Tuberculin testing requirements;~~

(12) Hearing and vision screening requirements;

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

~~(13) Transportation, if applicable;~~

(14) Water activities, if applicable;

~~(15) Field trips, if applicable;~~

~~(16) Animals, if applicable;~~

(18) Procedures for providing and applying, as needed, insect repellent and sunscreen, including what types will be used, if applicable;

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

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

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

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

(21) Instructions on how a parent may contact the local Licensing office, access the Texas Abuse and Neglect Hotline~~DFPS child abuse hotline~~, and access the DFPS website;

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

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

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

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

~~orientation;~~

(23) Your emergency preparedness plan;

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

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

(A) Required annual training for employees;

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

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

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

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

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

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

(b) You must also inform the parents that:

(1) They may visit the child-care center at any time during your hours of operation to observe their child, the child-care center's program activities, the building, the premises, and the equipment without having to secure prior approval; and

(2) Under the Texas Penal Code any area within 1000 feet of a child-care center is a gang-free zone, where criminal offenses related to organized criminal activity are subject to a harsher penalty. You may inform the parents by:

(A) Providing this information in the operational policies;

(B) Distributing the information in writing to the parents; or

(C) Informing the parents verbally as part of an individual or group parent orientation.

### **Helpful Information**

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

- Regarding paragraph (8), policy clarifying the steps that can be taken to prevent suspension or expulsion is very helpful to parents. But directors may always retain the right to dis-enroll a child if it is in the best interest of the child or other children at the center. Additional information regarding a policy for suspension and expulsion can be found in the DFPS Technical Assistance section.
- Regarding paragraph (9), a sample Infant in Child Care Safe Sleep Policy can be found in the DFPS Technical Assistance section.
- Regarding paragraph (23):
  - *Providing a mother with a place to sit and breastfeed her child helps to support this practice. Use of an adult-size chair in the classroom meets the intent of this requirement. Other things your operation may do to provide additional support include providing:*
    - ~~A~~ *a pillow to support her infant in her lap;*
    - ~~A~~ *stepstool for her to prop her feet and prevent back strain; and*
    - ~~Water~~ *water or other liquid to help her stay hydrated; and*

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

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

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

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

When you change an operational policy or your child-care enrollment agreement, you ~~You~~ must notify:

- (1) Your employees of any changes; and
- (2) The parents in writing of any changes ~~to your operational policies and enrollment agreement~~. At least one copy of the updated operational policies or child-care enrollment agreement must be signed and dated for each family. ~~You must keep the updated information~~ and kept in the child's record.

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

*Subchapter C, Record Keeping  
Division 1, Records of Children*

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

(a) You must maintain the following records for each child enrolled in your child-care center:

- (1) Child-care enrollment agreement specified in §746.503 of this title (relating to Must I provide parents with a copy of my operational policies?);
- (2) Admission information specified in §746.605 of this title (relating to What admission information must I obtain for each child?);
- (3) Statement of the child's health from a health-care professional;
- (4) Immunization records;
- (5) Tuberculosis screening and ~~Tubeculin~~ testing information, if ~~applicable~~ required by your regional Texas Department of State Health Services or local health authority;
- (6) ~~Hearing and v~~ ision and hearing screening results, if applicable;
- (7) Licensing Incident/Illness Report form, if applicable;

(8) A daily tracking system for when a child's care begins and ends as specified in §746.631 of this title (relating Must I have a system for signing children in and out of my care?) ~~Sign-in and sign-out logs;~~

(9) Medication administration records, if applicable; and

(10) A copy of any health-care professional recommendations or orders for providing specialized medical assistance to the child. In some instances minimum standards allow for a deviation from a minimum standard with written documentation from a health-care professional. You must also maintain this written documentation in the child's record.

(b) (No change.)

### **§746.613. What immunizations must a child ~~are children~~ in my care **required to have?****

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

(b) You must maintain current immunization records for each child in your care, including any immunization exemptions or exceptions.

(c) ~~Except as otherwise provided in this division, all~~ All immunizations required for the child's age must be completed by the date of admission, unless:

(1) The child is exempt or excepted from an immunization, and the exemption or exception is verified by the date of admission; or

(2) The child is homeless or a child in foster care and is provisionally admitted for up to 30 days if evidence of immunization is not available. You should immediately refer the child to an appropriate health-care professional to obtain the required immunizations. The DSHS rule at 25 TAC §97.66 (relating to Provisional Enrollment for Students) establishes the guidelines for a provisional enrollment.

### **Helpful Information**

- *According to the American Academy of Pediatrics (AAP), children require frequent boosters and immunizations in early childhood.*
- *Although ~~they~~ children may be current with required immunizations when they enroll, they can miss future required immunizations.*
- *Since the risk of vaccine preventable disease is increased in group settings, ensuring appropriate immunization is an essential responsibility in child care.*
- *The current immunization requirements can be found at <http://www.immunizetexas.com> , and:*
  - *For children 0 through 43 months click on "School Requirements", click on "Main Page", to the right of the page click on "Child-Care Facilities", and click on "[current year] Texas Minimum State Vaccine Requirements for Child-Care Facilities";*

- *For children 44 months through 18 years click on "School Requirements", click on "Main Page", to the right of the page click on "Schools", and click on "[current year] Texas Minimum State Vaccine Requirements for Students Grades K-12".*

**NEW §746.615. What exemptions or exceptions are there concerning immunization requirements?**

(a) A child may be exempt from immunization requirements for a medical reason or reason of conscience, including a religious belief. To claim an exemption, the person applying for the child's admission must meet criteria specified by the Department of State Health Services (DSHS) rule at 25 TAC §97.62 (relating to Exclusions from Compliance).

(b) For some diseases, a child who previously had a disease and is accordingly naturally immune from it may qualify for an exception to the immunization requirements for the disease. To claim this exception, the person applying for the child's admission must meet the criteria specified by the DSHS rule at 25 TAC §97.65 (relating to Exceptions to Immunization Requirements).

**Helpful Information**

*You can find more information regarding the Department of State Health Services' exemptions at <http://www.dshs.state.tx.us/immunize/default.shtm>, click on "School Requirements", click on "Main Page", and to the right of the page click on "Exclusions from Immunization Requirements".*

**DELETE §746.615. Are there exemptions for immunization requirements?**

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

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

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

**§746.623. What documentation is acceptable for an immunization records?**

Acceptable documentation includes:

(1) An official immunization record generated from a state or local health authority, including a record from another state. For example, the record may be from the Texas Immunization Registry, a copy of the current immunization record that is on file at the pre-kindergarten or school that the child attends, or the health passport for a child in the conservatorship of DFPS. The record must include:

(A) The child's name and date of birth;

(B) The type of vaccine and number of doses; and

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

(2) An official immunization record or photocopy. For example, the record may be from a doctor's office or a pharmacy. The record must include:

(A) The child's name and date of birth;

(B) The type of vaccine and number of doses;

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

(D) The signature (including a rubber stamp or electronic signature) of the health-care professional who administered the vaccine, or another health-care professional's documentation of the immunization as long as the name of the health-care professional that administered the vaccine is documented; and

(E) Clinic contact information, if the immunization record is generated from an electronic health record system.

~~(a) Documentation may be the original immunization record or a photocopy. An official immunization record generated from a state or local health authority, such as a registry, or a record received from school officials including a record from another state, is also acceptable.~~

~~(b) The immunization record must include:~~

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

~~(2) The number of doses and vaccine type;~~

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

~~(4) The signature or stamp of a physician or other health professional validating the record.~~

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

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

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

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

### **Helpful Information**

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

*Subchapter C, Record Keeping*

*Division 2, Records for Accidents and Incidents*

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

Note: There are no changes to this rule, only a new Helpful Information box was added.

### **Helpful Information**

You may obtain a copy of Licensing's Incident/Illness Report form on the DFPS website at:  
[http://www.dfps.state.tx.us/Child\\_Care/Information\\_for\\_Providers/cclforms.asp](http://www.dfps.state.tx.us/Child_Care/Information_for_Providers/cclforms.asp)

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

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

Yes. After the caregiver completes the form, the ~~The~~ director of the child-care center, or if the director is not available, the person in charge of the center must sign and date the completed report.

*Subchapter C, Record Keeping*

*Division 3, Records That Must Be Kept On File at the Child-Care Center*

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

You must maintain and make the following records available for our review upon request, during hours of operation. Paragraphs (14), (15), and (16) ~~(18), (19), and (20)~~ are optional, but if provided, will allow Licensing to avoid duplicating the evaluation of standards that have been evaluated by another ~~other~~ state agency ~~agencies~~ within the past year:

- (1) Children's records, as specified in Division 1 of this subchapter (relating to Records of Children);
- (2) Infant feeding instructions, as required in §746.2421 of this title (relating to What written feeding instructions must I obtain for an infant not ready for table food?), if applicable;
- (3) Personnel and training records according to Division 4 of this subchapter (relating to Personnel Records), ~~unless on file at a central administrative location;~~
- (4) Licensing *Child-Care Center Director's Certificate*;
- (5) Attendance records or time sheets listing all days and hours worked for each employee ~~employees~~;
- (6) ~~Children's program activity plans for each age group;~~
- (7) ~~Verification of liability insurance or notice of unavailability, if applicable;~~
- (8) ~~Proof of request for all background checks required by Chapter 745, Subchapter F of this title (relating to Background Checks);~~
- (9) ~~Daily menus;~~
- (10) ~~Medication records, if applicable;~~

- (118) Playground maintenance checklists;
- (129) Pet vaccination records, if applicable;
- (1310) ~~Safety~~~~Fire~~ ~~safety~~ documentation for emergency drills, fire extinguishers, and smoke detectors;
- ~~(14) Most recent Licensing inspection report, letter, or notice requiring posting;~~
- (1511) Most recent fire inspection report, including any written approval from the fire marshal to provide care above or below ground level, if applicable;
- (1612) Most recent sanitation inspection report;
- (1713) Most recent gas inspection report, if applicable;
- (1814) Most recent Texas Department of State Health Services' immunization compliance review form, if applicable;
- (1915) Most recent Texas Department of Agriculture Child and Adult Care Food Program (CACFP) report, if applicable;
- (2016) Most recent local workforce board Child-Care Services Contractor inspection report, if applicable;
- (2117) Record of pest extermination, if applicable;
- ~~(22) Written approval from the fire marshal to provide care above or below ground level, if applicable;~~
- (2318) Most recent DFPS form certifying that you have reviewed each of the bulletins and notices issued by the United States Consumer Product Safety Commission regarding unsafe children's products and that there are no unsafe children's products in use or accessible to children in the child-care center;
- ~~(24) System to track when a child's care begins and ends daily;~~
- (2519) A daily tracking system for when a child's care begins and ends as specified in §746.631 of this title (relating to Must I have a system for signing children in and out of my care?);
- (20) Documentation for cribs as specified in §746.2409(a)(9) of this title (relating to What specific safety requirements must my cribs meet?), if applicable; and
- (2621) Documentation for vehicles specified in §746.5627 of this title (relating to What documentation must I keep at the child-care center for each vehicle used to transport children in care?), if applicable.

### Helpful Information

*Proof of a background check request may include:*

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

Regarding paragraph (5), attendance records must also be kept on all substitutes, volunteers, and contractors that are regularly or frequently at the child-care center or counted in the child/caregiver ratio. For more information see §746.1401 of this title (relating to What minimum standards must substitutes, volunteers, or persons under contract with my center comply with?).

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

(a) Unless otherwise stated in this chapter, you ~~You~~ must keep at the child-care center for at least three months from the date the record was created each record that your center is required to post or keep ~~records at the child-care center for at least three months from the date the record was created, unless otherwise stated in this chapter.~~

(b) You must keep training records for the current director and caregivers for at least the current and last full training year.

*Subchapter C, Record Keeping*

*Division 4, Personnel Records*

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

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

**§746.909. May Licensing access my personnel records?**

Yes. Licensing staff must be given immediate access to all personnel records that document compliance with minimum standards. You must allow Licensing to photograph, copy, or scan ~~photocopy~~ these records if requested.

*Subchapter D, Personnel*

*Division 1, Child-Care Center Director*

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

~~(a)~~ Except as otherwise provided in this division, the director of a child-care center licensed for 13 or more children must be at least 21 years of age, have a high school diploma or its equivalent, and meet one of the following combinations of education and experience, as defined in §746.1021 of this title (relating to What constitutes experience in a licensed child-care center, or in a licensed or registered child-care home?):

Education	Experience
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(1) A bachelor's degree with 12 college credit hours in child development and six college credit hours in <del>business</del> -management,	and at least one year of experience in a licensed child-care center;
(2) An associate's of applied science degree in child development or a closely related field with six college credit hours in child development and six college credit hours in <del>business</del> -management. A "closely related field" is any educational instruction pertaining to the growth, development, physical or mental care, or education of children ages birth through 13 years,	and at least two years of experience in a licensed child-care center;
(3) Sixty college credit hours with nine college credit hours in child development and six college credit hours in <del>business</del> -management,	and at least two years of experience in a licensed child-care center;
(4) A child-care administrator's certificate from a community college with at least 15 college credit hours in child development and three college credit hours in <del>business</del> -management,	and at least two years of experience in a licensed child-care center;
(5) A Child Development Associate credential or Certified Child-Care Professional credential with six college credit hours in <del>business</del> -management,	and at least two years of experience in a licensed child-care center;
(6) A day-care administrator's credential issued by a professional organization or educational institution and approved by Licensing based on criteria specified in Subchapter P of Chapter 745 of this title, (relating to Day-Care Administrator's Credential Program),	and at least two years of experience in a licensed child-care center; or
(7) Nine college credit hours in child development and nine college credit hours in <del>business</del> -management,	and at least three years of experience in a licensed child-care center.

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

### Helpful Information

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

- Options (5) and (6) of this section require periodic renewal for the director to remain qualified as specified in §746.1053 of this title (relating to Will the director's certificate expire?) and §746.1055 of this title (relating to How often must an expiring certificate be renewed?).

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

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

Education	Experience
(1) A bachelor's degree with 12 college credit hours in child development and three college credit hours in <del>business</del> management,	and at least one year of experience in a licensed child-care center or a licensed or registered child-care home;
(2) An associate's of applied science degree in child development or a closely related field with six college credit hours in child development and three college credit hours in <del>business</del> management. A "closely related field" is any educational instruction pertaining to the growth, development, physical or mental care, or education of children ages birth through 13 years,	and at least one year of experience in a licensed child-care center or a licensed or registered child-care home;
(3) Sixty college credit hours with six college credit hours in child development and three college credit hours in <del>business</del> management,	and at least one year of experience in a licensed child-care center or a licensed or registered child-care home;
(4) A Child Development Associate credential or Certified Child-Care Professional credential with three college credit hours in <del>business</del> management,	and at least one year of experience in a licensed child-care center or a licensed or registered child-care home;
(5) A child-care administrator's certificate from a community college with at least 15 college credit hours in child development and three college credit hours in <del>business</del> management,	and at least two years of experience in a licensed child-care center or a licensed or registered child-care home;
(6) A day-care administrator's credential issued by a professional organization or an educational institution and approved by Licensing based on criteria specified in Subchapter P of Chapter 745 of this title (relating to Day-Care Administrator's Credential Program),	and at least two years of experience in a licensed child-care center or licensed or registered child-care home; or
(7) Seventy-two clock hours of training in child development and 30 clock hours in <del>business</del> management,	and at least three years of experience in a licensed child-

	care center or a licensed or registered child-care home.
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~~(b) Options (4) and (6) in subsection (a) of this section require periodic renewal.~~

**Helpful Information**

Options (5) and (6) of this section require periodic renewal for the director to remain qualified as specified in §746.1053 of this title (relating to Will the director's certificate expire?) and §746.1055 of this title (relating to How often must an expiring certificate be renewed?).

**DELETE §746.1019. Are any directors exempt from the qualifications?**

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

(a) Only the following types of experience may be counted as experience in a licensed child-care center:

(1) Experience as a director, assistant director, or as a caregiver working directly with children, ~~obtained in a any~~ DFPS licensed or certified child-care center (or similar type of day care center that was formerly licensed, certified, or accredited by DFPS); whether paid or unpaid; and

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

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

(b) Only ~~the following types of~~ experience working directly with children in a DFPS licensed or registered child-care home (or in a group day-care home that was formerly licensed by DFPS) as an assistant caregiver, substitute caregiver, or primary caregiver may be counted as experience in a licensed or registered child-care home.:

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

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

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

(c) You must have obtained all work experience in a full-time capacity or its equivalent in a part-time capacity. Full-time is defined as at least 30 hours per week. The work experience may be paid or unpaid.

**NEW §746.1031. What documentation must I provide to show that my director meets the acceptable child development and management education qualifications?**

If requested by Licensing, you must provide original transcripts and supporting documentation, such as a credit course catalog description or a course syllabus or outline to determine whether the course is recognized as child development or management.

**DELETE §746.1031. What are clock hours?**

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

**DELETE §746.1035. What are CEUs?**

**§746.1037. May clock hours or CEUs (continuing education units) ~~(CEUs)~~ be substituted for any of the educational requirements ~~in any of the options specified~~ in this division?**

(a) Clock ~~You may only substitute clock~~ hours or CEUs may only be substituted for the required credit hours in child development and ~~business~~-management.

(b) ~~You may substitute~~ 50 clock hours or five CEUs may be substituted for each every three college credit hours required in child development and/or ~~business~~-management.

(c) The documentation to verify the clock hours or CEUs must be as specified in §746.1329 of this title (relating to What documentation must I provide to Licensing to verify that training requirements have been met?).

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

(a) In addition to showing that your director meets the minimum qualifications for an employee (and minimum qualifications for a caregiver, if applicable), you ~~You~~ must submit the following for each director at your child-care center:

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

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

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

~~(4)~~ A completed Licensing *Governing Body/Director Designation* form; ~~and~~

~~(5)~~ An original and current Licensing *Child-Care Center Director's Certificate* form; or an original college transcript or original training certificates which verify the educational requirements; and

~~(4)~~ Complete dates, names, addresses, and telephone numbers which support the required experience.

(b) You must submit the information to us:

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

(2) Within ~~ten~~ five days of designating a new director.

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

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

**§746.1057. What happens if my director's credential expires ~~I do not submit the documentation confirming the credential is current?~~**

We will give you a deadline for your director to submit the required documentation or for you to designate another qualified director. If your director allows the certificate to expire without submitting the required documentation confirming that the credential is current, then your center will ~~and~~ no longer meet the minimum standards ~~meets requirements~~ for a child-care center director, ~~you violate minimum standards.~~

*Subchapter D, Personnel*

*Division 2, Child-Care Center Employees and Caregivers*

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

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

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

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

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

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

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

(4) Complete orientation to your child-care center as specified in Division 4 of this subchapter (relating to Professional Development).

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

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

- (1) Be at least 18 years of age;
- (2) Have a:
  - (A) High school diploma;
  - (B) High school equivalent; or
  - (C) High school certificate of coursework completion as defined in Texas Education Code, §28.025(d); and
- (3) Complete eight hours of the required 24 hours of pre-service training, as specified in Division 4 of this subchapter (relating to Professional Development) before being counted in the child/caregiver ratio.

**Helpful Information**

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

Minimum Qualifications for Employees Versus Caregivers

<u>Employees (not counted in the child/caregiver ratio):</u>	<u>Caregivers (counted in the child/caregiver ratio):</u>
<u>DFPS background check;</u>	<u>DFPS background check;</u>
<u>Be free of active tuberculosis, if required by DSHS or the local health authority;</u>	<u>Be free of active tuberculosis, if required by DSHS or the local health authority;</u>
<u>Notarized Licensing Affidavit for Applicants for Employment form; and</u>	<u>Notarized Licensing Affidavit for Applicants for Employment form;</u>
<u>Orientation to the child-care center.</u>	<u>Orientation to the child-care center;</u>
	<u>18 years old or older;</u>
	<u>High school diploma or equivalent; and</u>
	<u>Eight hours of the required 24 hours of pre-service training (before being counted in the child/caregiver ratio) and 16 additional hours within 90 days of employment; and</u>
	<u>24 hours of annual training.</u>

**§746.1109. When ~~Under what circumstances~~ may I employ a person under the age of 18 or a person who does not have a high school diploma or equivalent as a caregiver?**

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

(1) You don't leave the person alone with sole responsibility for or in charge of an individual child, a group of children, or the child-care center ~~or a group of children;~~

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

(3) The person has completed a child-care-related career program, which:

(A) The Texas Education Agency (including a charter school), the Texas Private School Accreditation Commission, other similar educational entity in another state, or federal agency approves; or

(B) A home-school approves, and the person completes all 24 hours of pre-service training before being placed in a room with children~~the Texas Education Agency or another state or federal agency approves.~~

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

(1) You don't leave the person alone with sole responsibility for or in charge of an individual child, a group of children, or the child-care center;

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

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

(A) The Texas Education Agency (including a charter school), the Texas Private School Accreditation Commission, other similar educational entity in another state, or federal agency approves; or

(B) A home-school approves, and the person completes all 24 hours of pre-service training before being placed in a room with children;

~~the Texas Education Agency or another state or federal agency approves;~~ and

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

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

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

*Subchapter D, Personnel*

*Division 3, General Responsibilities for Child-Care Center Personnel*

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

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

(1) - (5) (No change.)

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

- (A) Administrative and clerical ~~functions~~duties that take the caregiver's attention away from the children;
  - (B) Meal preparation, except when 12 or fewer children are in care;
  - (C) Janitorial duties, ~~such as mopping, vacuuming, and cleaning restrooms. Sweeping up after an activity or mopping up spills may be necessary for the children's safety and are not considered janitorial duties;~~ and
  - (D) Personal use of electronic devices, such as cell phones, MP3 players, tablets, and video games;
- (7) Interact routinely with children in a positive manner:
- (8) - (11) (No change.)

*Subchapter D, Personnel  
Division 4, Professional Development*

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

**NEW §746.1301. What training must I ensure that my employees and caregivers have?**

You must make sure that employees and caregivers have the training required in the following chart:

<b><u>Type of training:</u></b>	<b><u>Who is required to take the training?</u></b>
<u>(1) Orientation to your child care center within seven days of employment;</u>	<u>All employees.</u>
<u>(2) 24 clock hours of pre-service training: (A) A caregiver must complete eight hours before the caregiver may be counted in the child/caregiver ratio; and (B) A caregiver must complete the remaining 16 hours within 90 days of employment;</u>	<u>Only caregivers, although a caregiver may be exempt from pre-service training as specified in §746.1307 of this title (relating to Are any caregivers exempt from the pre-service training?).</u>
<u>(3) 24 clock hours of annual training;</u>	<u>Only caregivers.</u>
<u>(4) CPR and first-aid training; and</u>	<u>Employees and/or caregivers as specified in §746.1315 of this title (relating to Who must have first-aid and CPR training?).</u>
<u>(5) Transportation training.</u>	<u>Any employee or caregiver who transports a child whose chronological or developmental age is younger than nine years old, as specified in §746.1316 of this title (relating to What additional training must a person have in order to transport a child in care?).</u>

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

(a) - (c) (No change.)

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

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

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

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

**§746.1317. Must the training for my caregivers and the director meet certain criteria?**

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

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

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

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

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

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

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

(A) Providing training to the director's ~~his~~ own staff; and

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

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

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

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

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

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

~~(d)~~ All training, including instructor-led and self-instructional training, must include:

- (1) Specifically stated learning objectives;
- (2) A curriculum, which includes experiential or applied activities;
- (3) An evaluation/assessment tool to determine whether the person has obtained the information necessary to meet the stated objectives; and
- (4) A certificate of successful completion from the training source.

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

No. We do not approve or endorse training resources or trainers for training hours, however, you must. ~~You should, however,~~ ensure you and your employees receive ~~relevant~~ training that:

- (1) Meets the criteria specified in §746.1317 of this title (relating to Must the training for my caregivers and the director meet certain criteria?);
- (2) Is relevant to the ~~from reliable resources, in~~ topics specified in this division; and
- (3) The ~~that~~ participants receive original documentation of completion, as specified in this division.

**Helpful Information**

*We recommend you:*

- Ask the trainer to provide you with a résumé or vita showing relevant experience and education, or be certain you are obtaining training through reliable sources in the community who have verified the presenter’s qualifications for you;
- Make sure a trainer registered with the Texas Early Childhood Professional Development System Training Registry is actually registered and approved to deliver the particular training; and
- ~~Ask to see a copy of the certificate your employees will receive and~~ to preview the materials, before entering into an agreement to purchase any training. Your preview should:
  - Make sure the materials contain the information necessary to meet the stated objectives;
  - Look at the evaluation/assessment tool to determine whether the training is of sufficient quality; and
  - Review a copy of the certificate your employees will receive to make sure it meets the requirements of §746.1329.

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

Training received at another operation can be applied towards the annual training requirement, if:

- (1) The ~~If the~~ caregiver or director ~~is able to~~ provides documentation of training as specified in §746.1329 of this title (relating to What documentation must I provide to Licensing to verify that training requirements have been met?);

(2) The person obtained the training from a ~~another child-day~~ care center, a school-age or before or after-school program, or a child-care home that we license or register; and

(3) The training ~~operation that we regulate,~~ was obtained within two months before coming to work for your child-care center, ~~this training may apply toward the annual training requirement. If you apply this training to the annual training requirement, you must adjust the annual training year due dates for this person accordingly.~~

### **Helpful Information**

For example, a caregiver comes to work for you on June 1, 2016 and needs 24 hours of annual training. The caregiver provides documentation that she had 6 hours of appropriate annual training on April 15, 2016 at the child-care center she previously worked for. The caregiver would only need 18 additional hours of annual training for June 1, 2016 - May 31, 2017.

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

*Subchapter D, Personnel*

*Division 5, Substitutes, Volunteers, ~~Substitutes~~, and Contractors*

### **DELETE §746.1401. What minimum standards must substitutes comply with?**

[Also, delete the Helpful Information box.]

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

[Also, delete the Helpful Information box.]

### **§746.1401. What minimum standards must substitutes, volunteers, or persons under contract with my center comply with?**

(a) For purposes of this rule:

(1) Persons under contract with your center are "contractors"; and

(2) It does not matter if a substitute, volunteer, or contractor is paid or unpaid.

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

(c) Volunteers and contractors who are regularly or frequently present at the child-care center but not counted in the child/caregiver ratio must comply with minimum standards that apply to employees.

(d) Substitutes, volunteers, and contractors who are counted in the child/caregiver ratio must comply with minimum standards that apply to employees and caregivers, except as otherwise noted in subsection (e) of this section.

(e) Volunteers, including parents, who only supplement the ratios for field trips and water activities do not have to comply with the minimum standards that apply to

employees and caregivers, but they do have to comply with the relevant minimum standards in Subchapter E of this chapter relating to (Child/Caregiver Ratios and Group Sizes).

(f) Substitutes, volunteers, and contractors who do not meet caregiver qualifications must never be left alone with children.

(g) All substitutes, volunteers (except for those volunteers noted in subsection (e) of this section), and contractors must complete orientation before beginning the relevant duties.

(h) For substitutes, volunteers, and contractors counted in the child/caregiver ratio, the remaining 16 hours of pre-service training (the first eight hours must be completed before being counted in the child/caregiver ratio) must be completed within 90 days of beginning the relevant caregiver duties. If the person completes the pre-service training after that 90 day period, the person must cease performing any caregiver duties at the center until the person completes the pre-service training.

### **Helpful Information**

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

## *Subchapter F, Developmental Activities and Activity Plan*

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

*Note: There are no changes to this rule, only new information was added to the Helpful Information box.*

### **Helpful Information**

- *Research has shown that learning in young children is the result of interaction between the child's thoughts and ~~their~~ experiences with materials, ideas, and people. The quality of these interactions is enhanced by providing structure and a variety of opportunities to practice and explore new skills.*
- *While planning children's activities, keep in mind the diverse and ever-changing developmental needs of children, the abilities and interests of the children in the group, and the importance of children's play in developing physically, emotionally, intellectually, and socially.*
- *A child-care center is considered a place of public accommodation under the Americans with Disabilities Act (ADA), Title III, because it holds itself out to the public*

as a business. There is additional information regarding ADA and resources online at <http://www.dfps.state.tx.us> .

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

### §746.2203. Must caregivers have written activity plans?

Note: There are no changes to this rule, only new information was added to the Helpful Information box.

#### Helpful Information

- Planning daily activities ensures the children have a variety of activities that meet their developmental needs. A written plan helps to clarify for parents the services a center provides and also provides the caregiver with a guideline to follow.
- Activity plans may be two separate documents also commonly known as "daily schedules" and "lesson plans". Daily schedules must identify the daily routine for the group indicated. Lesson plans may be written for a group of children or individual children.

### §746.2205. What **must** ~~should~~ the activity plan include?

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

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

(2) A variety of activities daily;

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

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

(5) Regular meal and snack times;

(6) Supervised naptimes;

(7) Both;

(A) eChild-initiated activities, which are those activities that the child chooses on the child's own initiative, and that foster the child's independence. Child initiated activities require equipment, materials, and supplies to be within the reach of a child;  
and

(B) eCaregiver-initiated activities, which are those activities that are directed or chosen by the caregiver;

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

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

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

#### Subchapter H, Basic Care Requirements for Infants

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

Basic care for infants must include:

- (1) Care by the same caregiver on a regular basis, when possible;
- (2) Individual attention given to each infant ~~child~~ including playing, talking, cuddling, and holding;
- (3) Holding and comforting an infant ~~a child~~ who is upset;
- (4) Prompt attention given to physical needs, such as feeding and diapering;
- (5) Talking to infants ~~children~~ as they are fed, changed, and held, such as naming objects, singing, or saying rhymes;
- (6) Ensuring the environment is free of objects that may cause choking in infants or toddlers ~~children younger than three years~~; and
- (7) Never leaving an infant unsupervised.

#### Helpful Information

- Regarding paragraph (1), children ~~Children~~ learn best from adults who know and respect them and with whom they have established a trusting relationship. Individual attention received during the early years of life is crucial to an infant's ~~a child's~~ emotional and social development. Studies of infant behavior show that infants have difficulty forming trusting relationships in settings where many adults interact with the infant ~~child~~. The overall health and well-being of an infant ~~the child~~ can be positively impacted by providing infants with the same caregiver(s) on a regular basis.
- Regarding paragraph (3), the ~~The~~ American Academy of Pediatrics (AAP) recommends that the wishes of children, regardless of their ages, should always be respected with regard to physical contact and their comfort/discomfort with it. If a child indicates that the child ~~he or she~~ does not wish to be held or comforted, even “friendly contact” with a child should be avoided.
- Regarding paragraph (6), a commercial choke tube or empty toilet paper roll can be used to test toys and objects in the room that an infant or toddler may easily choke on. Try to place the toy or object into the tube. If the object easily passes through the tube, an infant or toddler may choke on it and such toys or objects must be removed from the children's access. If the object cannot pass through the tube, an infant or toddler is not likely to choke on it.

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

The room arrangement of the infant care area must:

- (1) Make it possible for caregivers to ~~see and/or~~ hear all infants ~~children~~ and see all infants at a glance, and be able to intervene when necessary;
- (2) - (5) (No change.)

### Helpful Information

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

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

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

- (1) An adult-sized rocker or chair;
- (2) An individual crib to sleep in for each non-walking infant younger than 12 months of age;
- (3) An individual crib, cot, bed, or mat that is waterproof or washable for each walking infant;
- (4) A hand-washing sink in the diaper-changing area, as specified in §746.4403 of this title (relating to Must I have a hand-washing sink in the diaper-changing area?); and
- (5) A sufficient number of toys to keep the infants children engaged in activities.

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

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

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

- (a) All full-size and non-full-size cribs must have:
  - (1) A firm, flat mattress that snugly fits the sides of the crib and that is specifically designed for use with the crib model number. The mattress must not be supplemented with additional foam material or pads;
  - (2) Sheets that fit snugly and do not present an entanglement hazard;
  - (3) A mattress that is waterproof or washable;
  - (4) Secure mattress support hangers, and no loose hardware or improperly installed or damaged parts;
  - (5) A maximum of 2 3/8 inches between crib slats or poles;
  - (6) No corner posts over 1/16 inch above the end panels;
  - (7) No cutout areas in the headboard or footboard that would entrap an infant's a child's head or body;
  - (8) Drop gates, if present, which fasten securely and cannot be opened by a child; ~~and~~
  - (9) Documentation that each crib meets the applicable federal rules at Title 16, Code of Federal Regulations, Parts 1219 or 1220, concerning "Safety Standards for Full-Size Baby Cribs" and "Safety Standards for Non-Full-Size Baby Cribs," respectively, or

documentation that each crib is a medical device listed and registered with the U.S. Food and Drug Administration; and

(10) A label with the infant's name. As an alternative, you may label cribs with a number and have a number/infant assignment map available.

(b) You must sanitize each crib before a different infant ~~child~~ uses it and when soiled.

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

### Helpful Information

- *Research shows more babies die in incidents involving cribs than with any other piece of nursery equipment.*
- *Non-full-size cribs may be either smaller or larger than a full size crib, or shaped differently than the usual rectangular crib. The category of non-full-size cribs includes oversized, specialty, undersized, and portable cribs, but does not include any product with mesh/net/screen siding, non-rigidly constructed cribs, cradles, car beds, baby baskets or bassinets. For requirements for play yards, which are mesh or fabric sided products, see §746.2411 of this title (relating to Are play yards allowed?).*
- *Regarding paragraph (1), a mattress is too loose if there are more than two finger widths between the edge of the mattress and the crib side.*
- *Regarding paragraph (5) if a soda can fits easily between the slats on a crib, the slats are too wide.*
- ~~*A mattress is too loose if there are more than two finger widths between the edge of the mattress and the crib side.*~~
- *Regarding paragraph (9):*
  - *Cribs manufactured before 06/28/2011 may not meet the safety standards established by the Consumer Product Safety Commission (CPSC).*
  - *Documentation that you may use to verify your crib is in compliance with CPSC regulations includes the certificate of compliance, registration card, or tracking label. You may request this documentation from the manufacturer or retailer.*
    - *The certificate of compliance is a document that describes the crib and whether the crib complies with 16 CFR 1219 or 16 CFR 1220. The certificate includes the contact information for the importer or domestic manufacturer and the testing lab. It also lists the date and location of manufacture and testing.*
    - *The registration card is a postage-paid form provided by the crib manufacturer. The card includes the manufacturer's name and contact information, model name, model number, and the date of manufacture.*
    - *The tracking label is attached to the crib and contains basic information such as the date of manufacture and the source of the crib.*
    - *You may find additional guidance on obtaining supporting documentation for your cribs on the CPSC website at <http://www.cpsc.gov>.*
  - *In order to maintain the required documentation for each crib consider developing a system to easily tie the required documentation to the appropriate crib. Examples may include photographs of each crib attached to the documentation or a tracking sheet that includes information such as the date of purchase, manufacturer and model number, date of manufacture, and what*

documentation is on file (certificate of compliance, tracking label, or registration card).

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

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

### **NEW §746.2411. Are play yards allowed?**

You may use a play yard, which is a mesh or fabric sided crib, if it meets the following safety requirements:

(1) The play yards must be used according to the manufacturer's instructions, including the cleaning of the play yard;

(2) Play yards must have:

(A) A firm, flat mattress that snugly fits the sides of the play yard and that is designed by the manufacturer specifically for the play yard model number. The mattress must not be supplemented with additional foam material or pads;

(B) Sheets that fit snugly and do not present an entanglement hazard;

(C) A mattress that is waterproof or washable;

(D) Secure mattress support hangers, and no loose hardware or improperly installed or damaged parts;

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

(F) Folded sides that securely latch in place when raised;

(G) For play yards that have mesh sides, mesh openings that are 1/4 inch or less;

(H) Mesh or fabric that is securely attached to the top rail, side rail, and floor plate; and

(I) A label with the infant's name. As an alternative, you may label play yards with a number and have a number/infant assignment map available; and

(3) You must never leave an infant in a play yard with a side folded down.

### **§746.2413. Are stacking wall cribs allowed?**

You may use a stacking ~~Yes. Stacking~~-wall crib that meets the ~~cribs must meet the~~ requirements in §746.2409 of this title (relating to What specific safety requirements must my cribs meet?), and ~~you~~:

(1) Do not stack more than ~~Are limited to two stacked~~ cribs;

(2) Only use a stacked crib for an infant who cannot stand or is able to stand without hitting the infant's head on either the top crib or the ceiling above the top crib;

(3) Use the crib ~~Must be used~~ according to manufacturer's directions; and

~~(34)~~ Securely latch the crib's doors/gates ~~Doors/gates must be securely latched~~ anytime an infant ~~a child~~ is in the crib.

**§746.2415. What ~~Are~~ specific types of equipment am I prohibited from using for use with infants?**

~~(a) Yes.~~ You may not use the ~~The~~ following list of equipment for infants, which has been identified as unsafe for infants by the Consumer Product Safety Commission and the American Academy of Pediatrics, ~~must not be used in the child-care center~~:

(1) Baby walkers, which are devices that allow an infant to sit inside a walker equipped with rollers or wheels and move across the floor;

(2) Baby ~~bungee~~ doorway jumpers, which are devices that allow an infant to bounce while supported in a seat by an elastic "bungee cord" suspended from a doorway;

(3) Accordion safety gates;

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

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

(b) Except for a tight fitting sheet and as provided in subsection (c), the crib must be bare for an infant younger than 12 months of age. ~~(6) Soft or loose bedding such as blankets, sleep positioning devices, stuffed toys, quilts, pillows, bumper pads, and comforters must not be used in cribs for children younger than 12 months of age.~~

(c) A crib mattress cover may also be used to protect against wetness, but the cover must:

(1) Be designed specifically for the size and type of crib and crib mattress that it is being used with;

(2) Be tight fitting and thin; and

(3) Not be designed to make the sleep surface softer.

### **Helpful Information**

- Regarding paragraph (1), baby ~~Baby~~ walkers present a hazard due to risk of falls down stairs, steps, and tipping over thresholds or carpet edges. They provide infants accessibility to potentially hot surfaces such as oven doors, heaters, and fireplaces; containers of hot liquids such as coffee, soup, or cooking oils; dangling appliance cords; poisonous plants, or hazardous substances, and buckets, toilets, or other containers of water.
- Regarding paragraph (2), baby doorway ~~Baby bungee~~ jumpers require individual supervision of the infant child to ensure the infant's his safety and are not appropriate for use in a group setting.
- Regarding paragraph (3), accordion ~~Accordion~~ gates with large V-shaped openings along the top edge and diamond shaped openings between the slats present entrapment and entanglement hazards resulting in strangulation, choking, or pinching to infants children who try to crawl through or over the gate.
- Regarding paragraph (4), examples ~~Examples~~ of items that present a choking hazard for infants and toddlers include coins, balloons, safety pins, marbles, Styrofoam© and similar products, and sponge, rubber, or soft plastic toys.

- *Regarding paragraph (6), studies ~~Studies~~-on SIDS support eliminating soft bedding materials, sleep positioning devices, and stuffed toys for infants ~~children~~-under twelve months.*

#### §746.2417. What activities must I provide for infants?

Activities for infants must include at least the following:

- (1) Daily opportunities for outdoor play as weather permits;
- (2) Multiple opportunities ~~Opportunities~~ to explore each day that are outside of the crib and any restrictive device ~~or other confining equipment multiple times each day~~;
- (3) - (8) (No change.)

#### §746.2419. Are there specific requirements for feeding infants?

Yes. You must:

- (1) Hold infants birth through six months while feeding them;
- (2) Hold infants over six months who are unable to sit unassisted in a high chair or other seating equipment while feeding them;
- (3) Never prop or support bottles with some object. The infant ~~child~~-or an adult must hold the bottle;
- (4) Provide regular snack and meal times for infants who eat table food;
- (5) Ensure infants ~~children~~-no longer being held for feeding are fed in a safe manner;
- (6) Label bottles and training cups with the infant's ~~child's~~ first name and initial of last name;
- (7) Never allow infants ~~children~~-to walk around with or sleep with a bottle or training cup;
- (8) Never use the hand-washing sink or diaper-changing surface for food preparation, or for washing food service/preparation equipment, bottles, pacifiers or toys; and
- (9) Sanitize high chair trays before each use.

#### Helpful Information

- *Regarding paragraph (3), research has shown that propping bottles can cause choking, aspiration, and increased risk for development of ear infections, tooth decay, and injuries to the teeth, as well as depriving infants of much-needed face-to-face interaction.*
- *Regarding paragraph (8), ~~u~~Using diaper changing surfaces and hand-washing sinks for food preparation or for washing items used for food service increases the spread of germs from cross contamination.*

#### §746.2421. What ~~Must I obtain~~-written feeding instructions must I obtain for an infant ~~children~~-not ready for table food?

(a) ~~Yes.~~ For an infant who is ~~children~~ not yet ready for table food, you must obtain and follow written feeding instructions that are signed and dated by the infant's ~~child's~~ parent or health-care professional ~~physician~~.

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

### Helpful Information

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

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

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

### **NEW §746.2426. May I allow infants to sleep in a restrictive device?**

You may not allow an infant to sleep in a restrictive device. If an infant falls asleep in a restrictive device, the infant must be removed from the device and placed in a crib as soon as possible. Infants may sleep in a restrictive device if you have a completed Sleep Exception Form that includes a signed statement from a health-care professional stating that the child sleeping in a restrictive device is medically necessary.

### Helpful Information

- *Infants sleeping in restrictive devices are at risk for strangulation, injury, and positional asphyxiation. Documentation from a health care professional is required for an infant to sleep in a device other than a CPSC approved crib.*
- *Infants arriving at the center asleep in a car seat must be removed from the car seat and placed in a crib. You must not place the car seat in the crib with a sleeping infant.*
- *If applicable, a copy of the Sleep Exception Form should be kept in the infant's classroom for easy review by caregivers and licensing staff.*

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

Infants not yet able to turn over on their own must be placed in a face-up sleeping position in the infant's own crib, unless you have a completed Sleep Exception Form that includes a signed statement ~~the child's parent presents written documentation~~ from a health-care professional stating that a different sleeping position for the child is medically necessary ~~allowed or will not harm the infant~~.

### Helpful Information

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

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

~~No.~~ You may not lay a swaddled infant down to sleep or rest on any surface at any time unless you have a completed Sleep Exception Form that includes a signed statement from a health-care professional stating that swaddling the child for sleeping purposes is medically necessary.

### Helpful Information

If applicable, a copy of the Sleep Exception Form should be kept in the infant's classroom for easy review by caregivers and licensing staff.

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

You must provide a daily written or electronic report to the infant's ~~child's~~ parent when or by the time the infant ~~child~~ is picked up from the child-care center. The report must contain:

- (1) Times the infant ~~child~~ slept;
- (2) Times and amount of food consumed;
- (3) Times of diaper changes;
- (4) Infant's ~~Child's~~ general mood for the day; and
- (5) A brief summary of the activities in which the infant ~~child~~ participated.

### Helpful Information

*Because infants are not able to communicate essential information to their parents, it is important that the caregiver do so. In child-care centers, several caregivers may care for an infant or there may be a shift change. A report for each parent will allow the parent to know how their infant spent the day, so the parent can supplement the infant's activities,*

meals and so on at home, based on the infant's ~~child's~~ activities. This is a very good way of creating solid communication and healthy relationships with parents, and it enhances the protection and well-being of infants.

### Subchapter I, Basic Care Requirements for Toddlers

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

Basic care for toddlers must include:

- (1) Routines such as diapering, feeding, sleeping, and indoor and outdoor activity times, maintained as closely as possible;
- (2) Care given by the same caregiver on a regular basis, when possible;
- (3) Individual attention given to each toddler ~~child~~ including playing, talking, and cuddling;
- (4) Holding and comforting a toddler ~~child~~ who is upset; and
- (5) Ensuring the environment is free of objects that may cause choking in infants or toddlers ~~children younger than three years of age~~.

#### Helpful Information

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

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

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

- (1) Age-appropriate seating, tables, and nap or rest equipment;
- (2) Enough popular items available so that toddlers are not forced to compete for them;
- (3) Containers or low shelving that are accessible to toddlers, so toddlers ~~items children~~ can safely obtain the items ~~use~~ without adult intervention ~~direct supervision are accessible to children~~; and
- (4) Bottles and training ~~Training~~ cups, if used, must be ~~that are~~:
  - (A) Labeled with the toddler's ~~child's~~ first name and initial of last name or otherwise individually assigned to each toddler ~~child~~; ~~and/or~~;
  - (B) Cleaned and sanitized between each use; and
  - (C) Used for drinking and feeding, and never allow toddlers to sleep with or walk around with a bottle or training cup.

#### Helpful Information

- *It is acceptable to assign training cups using individualized colors or symbols that toddlers ~~a child~~ may recognize as theirs.*

- If the training cups are cleaned and sanitized between each use then you are not also required to label each cup with the toddler's ~~child's~~ name.

### **§746.2507. What activities must I provide for toddlers?**

Activities for toddlers must include at least the following:

(1) - (6) (No change.)

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

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

~~(9) Regular meal and snack times; and~~

~~(10) Supervised naptimes.~~

#### **Helpful Information**

- You may accommodate weather, air quality, and seasonal changes by adjusting the scheduled outdoor time, the length of time outdoors, and children's clothing.
- Indoor and outdoor active play enhances fitness and general health and supports creativity, learning, and development.
- Active play opportunities must~~should~~ be offered throughout the day. It is recommended that caregivers incorporate two or more short (5 to 10 minutes) structured activities or games daily that promote physical activity.
- Active play must~~should~~ never be withheld from toddler ~~children~~ who misbehave although toddler ~~children~~ exhibiting out of control behavior may need a few minutes to calm themselves or settle down before resuming cooperative play or activities.
- ~~Some children may require additional rest time before or after the noon meal outside of the scheduled rest period.~~ Naptimes and meal and snack times are also required by §746.2901 et al and §746.3301 et al. respectively.

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

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

#### **Helpful Information**

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

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

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

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

(1) - (6) (No change.)

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

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

~~(9) Regular meal and snack times; and~~

~~(10) Supervised naptimes.~~

### **Helpful Information**

- You may accommodate weather, air quality, and seasonal changes by adjusting the scheduled outdoor time, the length of time outdoors, and children's clothing.
- Indoor and outdoor active play provides for greater freedom and flexibility, fuller expression through loud talk, and a greater range of active movement.
- Active play opportunities ~~must~~should be offered throughout the day. It is recommended that caregivers incorporate two or more short (5 to 10 minutes) structured activities or games daily that promote physical activity.
- Active play ~~must~~should never be withheld from children who misbehave although children exhibiting out of control behavior may need a few minutes to calm themselves or settle down before resuming cooperative play or activities.
- Naptimes and meal and snack times are also required by §746.2901 et al and §746.3301 et al, respectively.
- ~~See §§746.2901-746.2911 for additional minimum standards on naptime.~~

### *Subchapter K, Basic Care Requirements for School-Age Children*

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

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

(1) - (5) (No change.)

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

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

~~(8) Regular meal and snack times; and~~

~~(9) Naptimes, or a period of rest for those children too old to nap, during which children should be supervised according to §746.1205 of this title (relating to What does Licensing mean by "supervise children at all times"?).~~

### Helpful Information

- *Research has shown that school-age children benefit from an after-school care program that provides an enriching contrast to the formal school environment. Activities including team sports, cooking, art, dramatics, music, crafts, and games allow them to explore new interests and relationships.*
- *Indoor and outdoor active play enhances fitness and general health and supports creativity, learning, and development.*
- *Naps and rest time for school age children will vary with each child's individual needs. Children in full-day care benefit from resting or napping during their long day. A rest period may be reading books, or listening to soft music or books on tape.*
- ~~—~~ *Naptimes and meal and snack times are also required by §746.2901 et al and §746.3301 et al, respectively.*
- ~~See §§746.2901-746.2911 for additional minimum standards on naptime.~~

### *Subchapter L, Discipline and Guidance*

### **DELETE §746.2801. To what extent may caregivers discipline children in their care?**

#### **§746.2803. What methods of discipline and guidance may a caregiver use?**

##### Discipline must be:

- (1) Individualized and consistent for each child;
- (2) Appropriate to the child's level of understanding;
- (3) Directed toward teaching the child acceptable behavior and self-control; and
- (4) A ~~caregiver may only use~~ positive method ~~methods~~ of discipline and guidance that encourages self-esteem, self-control, and self-direction, including ~~which include at least~~ the following:

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

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

(3C) Redirecting behavior using positive statements; and

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

#### **§746.2805. What types of discipline and guidance or punishment are prohibited?**

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

(1) - (7) (No change.)

(8) Placing a child in a locked or dark room, bathroom, or closet ~~with the door closed~~; and

(9) Requiring a child to remain silent or inactive for inappropriately long periods of time for the child's age, including requiring a child to remain in a restrictive device.

### Helpful Information

- *Child development research supports that physical punishment such as pinching, shaking, or hitting children teaches them that hitting or hurting others is an acceptable way to control unwanted behavior or get what they want.*
- *Children will also mimic adults who demonstrate loud or violent behavior.*
- *Rapping, thumping, popping, yanking, and flicking a child are all ~~only~~ examples of ~~various terms used for inflicting corporal punishment on a child.~~*

### DELETE §746.2809. Must I have a written discipline and guidance policy?

### DELETE §746.2813. How often must I update written discipline and guidance policy?

#### *Subchapter M, Naptime*

#### **§746.2905. Are children required to sleep during this time?**

No. You must not:

(1) Force ~~force~~ a child to sleep or put anything in or on a child's head or body to force the child to rest or sleep; or

(2) Confine a child in a restrictive device to make the child rest or sleep.

#### **§746.2911. May I lower the lighting in ~~darken~~ the room while children are sleeping?**

Yes. You may lower the lighting, provided there is adequate lighting to allow visual supervision of all children in the group at all times. Lighting in a room is adequate if a person's eyes do not need to adjust for the person to be able to see upon entering the room.

#### *Subchapter N, Field Trips*

#### **§746.3001. May I take children away from my child-care center for field trips?**

*Note: Note: There are no changes to this rule, only a new Helpful Information box was added.*

## Helpful Information

- Regarding Paragraph (3):
  - Conducting multiple name to face checks while away from the center will help ensure a child has not wandered off, gotten lost, or been left behind;
  - Conducting multiple name to face checks while away from the center will alert staff to begin an immediate search if a child is missing; and
  - Caregivers should record the count on an attendance sheet or on a pocket card, along with the time the count occurred.
- For child/caregiver ratios and groups sizes, see subchapter E of this chapter.

## DELETE §746.3005. Must I have additional caregivers present to take children on a field trip?

*Subchapter O, Get-Well Care Program*

### **§746.3117. Do caregivers in my get-well care program require special training ~~or~~ qualifications?**

Yes, in addition to the orientation, pre-service training, and annual training required of caregivers in this chapter ~~regular caregiver qualifications~~, all get-well care program caregivers must:

- (1) Have current certification in CPR and first aid, including rescue breathing and choking, notwithstanding the training specified in §746.1315 of this title (relating to Who must have first-aid and CPR training?); and
- (2) Have five additional hours of annual training in prevention and control of communicable diseases and care of ill children ~~general infection control procedures, recognition and care of children with mild childhood illnesses, and child development activities for children who are ill~~ for a total of ~~20~~29 hours per year.

### **§746.3119. May the director of my well child-care program also direct my get-well care program?**

Yes, although the director of your get-well care program must:

- (1) Meet all qualifications specified in Subchapter D of this chapter (relating to Personnel);
- (2) Not be counted in child/caregiver ratio or be responsible for supervising or caring for any children in either program;
- (3) Have current certification in CPR and first aid, including rescue breathing and choking; and
- (4) Have ten additional hours of annual training in prevention and control of communicable diseases, and care of ill children, for a total of ~~30~~40 hours per year.

### **§746.3123. Must my get-well care program follow any special handling procedures?**

Yes. In addition to the minimum standards noted in this Chapter, including Subchapter R (relating to Health Practices), you ~~You~~ must follow these ~~handling~~ procedures when providing get-well care:

(1) - (5) (No change.)

#### *Subchapter P, Nighttime Care*

#### **§746.3201. What is nighttime care?**

(a) Nighttime care is care given on a regular or frequent basis to children who are starting or continuing their night sleep, or to children who spend the night or part of the night at the child-care center between the hours of 9:00 p.m. and 6:00 a.m.

(b) Nighttime care does not include the occasional sleep-over program offered at infrequent intervals. ~~Notify us before offering either program.~~

#### **§746.3203. May I provide nighttime care to children at my child-care center?**

(a) ~~You~~ Yes, you may care for children both during the day and night if we approve it. Even then, a child may only be in care for:

(1) No more than 16 hours within a 24-hour period on a daily basis; or

(2) No more than three consecutive 24-hour periods with a maximum of six 24-hour periods per month, as specified in §745.383 of this title (relating to Can a licensed child day-care operation offer 24-hour care?).

(b) You cannot exceed these limits ~~without getting a license for a residential child-care operation.~~

#### **Helpful Information**

The only way to exceed these limits would be to obtain a separate residential child-care license and comply with the standards relevant to that license.

#### *Subchapter Q, Nutrition and Food Service*

#### **§746.3309. May parents provide meals and/or snacks for their children instead of my child-care center providing ~~them~~ these?**

(a) - (c) (No change.)

(d) Snacks ~~You must ensure meals and snacks~~ provided by a parent must not be ~~and~~ shared with other children unless:

(1) A parent is providing baked goods for a celebration or party being held at the center; and

(2) You ensure the shared snacks meet the needs of children who require special diets.

**§746.3313. Can I make substitutions and/or rotate the ~~Must I post and maintain~~ daily menus?**

Yes. ~~You must:~~

- (1) ~~Post daily menus showing all meals and snacks prepared and served by the child-care center where parents and others can see them.~~ Substitutions ~~must be~~ of comparable food value may be made to the daily menu, but you must keep. ~~Keep~~ a record of any substitutions made; and
- (2) ~~Date menus and keep copies for review for three months; and~~
- (3) ~~If you~~ You may rotate menus, but you must keep a record of which menu was used for each date.

**§746.3317. What general requirements apply to food service and preparation?**

*Note: There are no changes to this rule, only new information was added to the Helpful Information box.*

**Helpful Information**

- *Research has shown that 90% of fatal choking ~~occur~~ occurs in children younger than four years of age. Examples of foods that present a risk of choking include hot dogs sliced into rounds, whole grapes, hard candy, string cheese, nuts, seeds, raw peas, dried fruit, pretzels, chips, peanuts, popcorn, marshmallows, spoonful's of peanut butter, and chunks of meat larger than can be swallowed whole.*
- *Tables are often used for many purposes in child care. Although the tables should be washed before mealtime, they will still bear a heavier load of infecting organisms than plates or sanitized food holders.*
- *Expiration dates should be monitored to ensure that food and beverage quality is safe for consumption.*

*Subchapter R, Health Practices  
Division 1, Environmental Health*

**§746.3401. Must my child-care center have an annual sanitation inspection?**

- (a) Your child-care center must have a sanitation inspection before we issue your initial permit and at least once every 12 months, unless your child-care center is located in a public school facility operated by the local independent school district.
- (b) If an inspection is required, a local sanitation official must conduct the inspection.
- (c) If an inspection is not available from a local sanitation official, you must:
  - (1) Obtain documentation from a ~~state or~~ local sanitation official or county judge stating that an inspection is not available; and
  - (2) Maintain this documentation at the center and make it available to us upon request.

**§746.3405. Do I have to make corrections called for in the report?**

Yes, if required, you must comply with corrections, restrictions, or conditions specified by the inspector in the sanitation report, letter, or checklist.

### **§746.3407. What steps must I take to ensure a health environment for children at my operation?**

*Note: There are no changes to this rule, only small changes were made to the Helpful Information box.*

#### **Helpful Information**

- Research supports preventive steps to help limit the spread of infections, such as regular and proper hand washing, ventilating rooms regularly with lots of fresh air, and establishing cleaning routines ~~helps to limit the spread of infections~~. Germs have difficulty growing in clean, dry and well-ventilated environments.
- Contamination of toys and other objects in the room contributes to the transmission of diseases and germs in ~~child-care~~ operations. Providing enough toys to rotate through the cleaning process allows children to stay in active play while maintaining a healthy environment.

#### **DELETE §746.3409. What does Licensing mean when it refers to "sanitizing"?**

#### **DELETE §746.3411. What is a disinfecting solution?**

### **§746.3415. When must employees wash their hands?**

Employees must wash their hands:

- (1) Before eating or handling food or medication;
- (2) Before feeding a child;
- (3) After arriving at the child-care center;
- (4) After diapering a child;
- (5) After assisting a child with toileting;
- (6) After personal toileting;
- (7) After handling or cleaning bodily ~~body~~ fluids, such as after wiping noses, mouths, or bottoms, and tending sores;
- (8) After handling or feeding animals;
- (9) After outdoor activities;
- (10) After handling raw food products;
- (11) After eating, drinking, or smoking; **and**
- (12) After using any cleaners or toxic chemicals; and
- (13) After removing gloves.

### **§746.3417. When must children wash their hands?**

Note: There are no changes to this rule, only a new Helpful Information box was added.

### Helpful Information

It is a best practice to require all children to wash their hands immediately upon entering a child care center or the child's first room. It is also a best practice to require all parents visiting the center to wash their hands upon entering the center or their child's room. Studies have shown an increase in overall health in a center when programs eliminate the transmission of germs from the home environment to the center by requiring hand hygiene for all entering the center.

### **§746.3419. How must children and employees wash their hands?**

Children 18 months of age and older and employees must wash their hands with soap and running water. ~~Pre-moistened towelettes or wipes and waterless hand cleaners are not a substitute for soap and running water.~~

### Helpful Information

- *Research has shown the single most effective practice that prevents the spread of germs in the child-care setting is good hand washing by caregivers and children.*
- *Rubbing hands together under running water is the most important part of washing away infectious germs. Deficiencies in hand washing, including sharing basins of water, have contributed to many outbreaks of diarrhea among children and caregivers in child-care centers.*
- *The Centers for Disease Control (CDC) recommends these hand washing steps:*
  - *Wet your hands with clean running water and apply soap;*
  - *Rub your hands together to make lather and scrub them well, and; be sure to scrub the backs of your hands, between your fingers, and under your nails;*
  - *Continue rubbing your hands for at least 20 seconds (tip: hum the "Happy Birthday" song twice);*
  - *Rinse your hands well under running water;*
  - *Dry your hands using a clean towel or air dry; and*
  - *Use a paper towel to turn off the faucet.*
- ~~*The use of alcohol-based hand sanitizers does not substitute for hand washing in the group care setting. Alcohol-based hand sanitizers are flammable and toxic if ingested by children.*~~

### **NEW §746.3420. May I use hand sanitizer as a substitute for washing hands?**

You may use hand sanitizers as a substitute for washing hands if all of the following conditions are met:

- (1) You only use hand sanitizers on children 24 months and older;
- (2) You do not use hand sanitizers to wash hands that are visibly dirty or greasy or have chemicals on them, unless you are away from the classroom and soap and water are not available for hand washing;

(3) You follow the labeling instructions for the appropriate amount to be used and for how long the hand sanitizer needs to remain on the skin surface to be effective;

(4) Children have adult supervision when using hand sanitizers; and

(5) You store hand sanitizers out of the reach of children when not in use.

### **Helpful Information**

- The use of hand sanitizers should be used in moderation and should not be substituted for all hand washing.
- Supervision of children is required to monitor effective use of hand sanitizers and to avoid potential ingestion or inadvertent contact with a child's eyes, mouth, or nose.

### **§746.3421. How must I wash an infant's hands?**

(a) Until the infant is old enough to be raised to the faucet and reach for the water, you must wash the infant's hands using an individual cloth or disposable towel with soap, followed by a cloth or disposable towel used to rinse with clear water and dry.

(b) Use soap and running water as specified in this division when infants are old enough to be raised to the faucet and reach for the water and any other time that the caregiver has reason to believe the infant ~~child~~ has come in contact with substances that could be harmful to the infant~~child~~.

### **Helpful Information**

- An infant that does not have muscle control of the infant's head and neck must not be raised to the sink to wash the infant's hands.
- Baby wipes may be used for infants that do not have the muscle control to hold up their head and reach for the water. However, the baby wipes must state they are safe to use for infants and must be discontinued once the infant is able to be raised to the faucet and reach for the water.

## *Subchapter R, Health Practices*

### *Division 2, Diaper Changing*

### **§746.3501. What steps must caregivers follow for diaper changing?**

Caregivers must:

(1) Promptly change soiled or wet diapers or clothing;

(2) Thoroughly cleanse a ~~children~~ with individual cloths or disposable towels. You must discard any ~~the~~ disposable towels after use and launder any cloths before using them again;

(3) Ensure that a ~~the children~~ is ~~are~~ dry before placing a new diaper on the child. If the child must be dried, you must use a clean, individual cloth or disposable towel to dry the child. You must discard the disposable towel after use and launder any cloth before using it again;

(4) Not apply powders, creams, ointments, or lotions unless you obtain ~~without~~ the parent's written permission. If the parent supplies these items, permission is implicit and you do not need to obtain permission for each use;

(5) Label powders, creams, ointments, or lotions with the individual child's name; and

(6) Keep all diaper-changing supplies out of the reach of children ~~children's reach~~.

### **§746.3503. What equipment must I have for diaper changing?**

(a) You must have a diaper-changing table or surface that is smooth, non-absorbent, and easy to clean.

(b) You must not use areas that children come in close contact with during play or eating, such as dining tables, sofas, or floor play areas, for diaper changing.

(c) ~~If the~~ To prevent a child from falling, a diaper-changing table or surface ~~that~~ is above the floor level, then at all times when the child is on the table/surface:

(1) There must be ~~Must have~~ a safety mechanism (such as ~~safety straps or~~ raised sides) that is used ~~at all times when the child is on the surface; or~~

(2) The caregiver's hand must remain on the child; or

(3) The caregiver must be facing the child and within an arm's length of the child ~~at all times when the child is on the surface.~~

(d) You must have a hand-washing sink in the diaper-changing area. Refer to §746.4403 of this title (relating to Must I have a hand-washing sink in the diaper-changing area?).

#### **Helpful Information**

- A separate area used for diaper changing and/or changing of soiled underwear reduces contamination of other parts of the child-care environment.
- Safety straps on a diaper-changing surface should not be used because the straps are difficult to sanitize and can cross contaminate.

### **§746.3505. What must I do to prevent the spread of germs when diapering children?**

*Note: There are no changes to this rule, only a small change was made to the Helpful Information box.*

#### **Helpful Information**

- *Recommendation: Assembling all of the supplies necessary for a diaper change before bringing the child to the changing table ensures the protection of the child. If the hand-washing sink is not adjacent to the diapering area, wipes may be used, as a temporary measure only, to clean the caregiver's and child's hands while supervising the child on the changing table.*
- *During diaper changing, a child's hands often stray into the area of the child's body covered by the diaper. Germs are contained in human waste and body fluids and are*

present on the skin and the diaper even if they cannot be seen. Washing an infant's or child's hands after each diaper change helps reduce the spread of germs.

- Because of the risk of splashing, and gross contamination of hands, sinks, and bathroom surfaces, rinsing diapers or clothes soiled with fecal material in the child-care setting increases the risk that you, other caregivers, and the children would be exposed to germs that cause infection.
- Rotating 2 changing mats throughout the day, using one while another is sanitized and dries, provides an alternative to waiting between diaper changes.

Subchapter R, Health Practices  
Division 3, Illness and Injury

**§746.3601. What types of illness would prohibit a child from attending the child-care center~~being admitted for care~~?**

Unless you are licensed to provide get-well care, you must not allow an ill child to attend your child-care center ~~admit an ill child for care~~ if one or more of the following exists:

- (1) The illness prevents the child from participating comfortably in child-care center activities including outdoor play;
- (2) The illness results in a greater need for care than caregivers can provide without compromising the health, safety, and supervision of the other children in care;
- (3) The child has one of the following, (unless a medical evaluation by a health-care professional indicates that you can include the child in the child-care center's activities):
  - (A) An oral ~~Oral~~ temperature above 101 degrees that is ~~and~~ accompanied by behavior changes or other signs or symptoms of illness;
  - (B) A tympanic (ear) temperature above 100 degrees that is accompanied by behavior changes or other signs or symptoms of illness. Tympanic thermometers are not recommended for children under six months old ~~Rectal temperature above 102 degrees and accompanied by behavior changes or other signs or symptoms of illness;~~
  - (C) An axillary (armpit) ~~Armpit~~ temperature above 100 degrees that is ~~and~~ accompanied by behavior changes or other signs or symptoms of illness; or
  - (D) Symptoms and signs of possible severe illness such as lethargy, abnormal breathing, uncontrolled diarrhea, two or more vomiting episodes in 24 hours, rash with fever, mouth sores with drooling, behavior changes, or other signs that the child may be severely ill; or
- (4) A health-care professional has diagnosed the child with a communicable disease, and the child does not have medical documentation to indicate that the child is no longer contagious.

**Helpful Information**

- Regarding paragraph (3), ~~W~~when taking a child's temperature, the American Academy of Pediatrics (AAP) recommends that:
  - ~~Rectal temperatures should only be taken by persons with specific health training in this procedure.~~

- Electronic devices for measuring temperature require periodic calibration and specific training in proper technique; and
- The height of fever does not indicate a more or less severe illness.
- Regarding subparagraph (D), as with temperatures a child does not have to be sent home unless there are multiple symptoms and signs of possible severe illness. Some children may also have medical issues that cause one or more symptoms, but the symptoms may not be a sign of possible severe illness (for example, a child that is lactose intolerant).
- To clarify "uncontrolled diarrhea", this is when:
  - A diapered child's stool:
    - Is not contained in the diaper; and/or
    - Exceeds two or more stools above the normal for that child; and
  - A toilet-trained child's diarrhea is causing soiled pants and clothing.

### **NEW §746.3606. When may a child who was ill return to my child-care center?**

A child who was ill may return to your child-care center when:

- (1) The child is free of symptoms of illness for 24 hours; or
- (2) You have obtained a health care professional's statement that the child no longer has an excludable disease or condition.

### **§746.3607. How should caregivers respond to an critical-illness or injury that requires the immediate attention of a health-care professional?**

~~If~~For an critical-illness or injury that requires the immediate attention of a health-care professional~~physician~~, you must:

- (1) Contact emergency medical services (or take the child to the nearest emergency room after you have ensured the supervision of other children in the group);
- (2) Give the child first-aid treatment or CPR when needed;
- (3) Contact the child's parent; ~~Contact the physician identified in the child's record;~~
- (4) Contact the physician or other health-care professional identified in the child's record; ~~Contact the child's parent;~~ and
- (5) Ensure supervision of other children in the group.

*Subchapter S, Safety Practices  
Division 1, Safety Precautions*

### **§746.3701. What safety precautions must I take to protect children in my child-care center?**

All areas accessible to a child must be free from hazards including, but not limited to, the following:

- (1) - (6) (No change.)
- (7) All storage chests, boxes, trunks, or similar items with hinged lids must be equipped with a lid support designed to hold the lid open in any position, be equipped with ventilation holes, and must not have a latch that might close and trap a child inside;  
~~and~~

(8) All bodies of water such as pools, hot tubs, ponds, creeks, birdbaths, fountains, buckets, and rain barrels must be inaccessible to all children; and

(9) All televisions must be anchored, so they cannot tip over. A television may be anchored to a rolling cart, as long as it is anchored in a way that the cart will not tip over.

### Helpful Information

- *Supervision alone cannot prevent all accidents and injuries; therefore the environment must be free of health and safety hazards to reduce risks to children.*
- *Additional examples of hazards to children include: sharp scissors, plastic bags, knives, cigarettes, matches, lighters, flammable liquids, drugs/medications, sharp instruments such as an ice pick, power tools, cleaning supplies, chemicals, and other items labeled keep out of the reach of children.*
- *Buildings, grounds and equipment in a state of disrepair threaten the health and safety of children.*
- Regarding paragraph (8), According to the U.S. Consumer Product Safety Commission (CPSC), any body of water including bathtubs, pails, and toilets presents a drowning risk to young children. An estimated 50 infants and toddlers drown each year in buckets containing liquid used for mopping floors and other cleaning chores. The 5-gallon bucket presents the greatest hazard to young children because of its tall straight sides and its weight with even a small amount of liquid. It is nearly impossible for top-heavy infants and toddlers to free themselves when they fall into a 5-gallon bucket head first.
- Regarding paragraph (9), CPSC estimates that more than 43,000 consumers are injured in tip-over incidents. More than 25,000 (59%) of those injuries are to children under the age of 18. Falling furniture accounts for more than half (52%) of the injury reports. Falling televisions have proven to be more deadly, as they are associated with more than half (62%) of reported fatalities.

### **§746.3703. How can I ensure the safety of children from other persons?**

(a) - (c) (No change.)

(d) People must not smoke any e-cigarette, vaporizer, or ~~use~~-tobacco products or otherwise use any tobacco product at your ~~the~~-child-care center, on the premises, on the playground, in transportation vehicles, or during field trips.

### **§746.3707. Are firearms or other weapons allowed at my child-care center?**

(a) Peace officers as listed in §2.12 of the Code of Criminal Procedure and security officers commissioned by the Texas Private Security Board ~~Law enforcement officials~~ who are trained and certified to carry a firearm on duty may have firearms and ~~or~~ ammunition on the premises of the child-care center.

(b) For all other persons, firearms, hunting knives, bows and arrows, and other weapons are prohibited on the premises of the child-care center, unless the child-care center is also your residence. This prohibition does not apply to personal vehicles.

- (c) Firearms, hunting knives, bows and arrows, and other weapons kept on the premises of a child-care center located in your home must remain in a locked cabinet inaccessible to children during all hours of operation.
- (d) Ammunition must be kept in a separate locked cabinet and inaccessible to children during all hours of operation.

**§746.3709. May I have ~~other~~ toys or other types of equipment that explodes or shoots things?**

A child may not use any type of toy or equipment ~~No. Toys~~ that explodes or that shoots things, such as caps, BB guns, darts, or fireworks, ~~are prohibited as toys at the child-care center or on field trips for children in both residential and non-residential locations.~~ These types of toys and equipment are not allowed at your operation unless your operation is located in your home. If your Toys that explode or shoot things kept on the premises of a child-care center is -located in your home, you must keep any such toy or equipment ~~remain~~ in a locked cabinet inaccessible to any child during your ~~all~~ hours of operation.

*Subchapter S, Safety Practices  
Division 2, Medications and Medical Assistance*

**§746.3801. What does "medication" refer to in this division?**

In this division, medication means:

- (1) A prescription medication; or
- (2) A non-prescription medication, excluding topical ointments such as diaper ointment, insect repellent, or sunscreen.

*Subchapter S, Safety Practices  
Division 3, Animals at the Child-Care Center*

**§746.3901. What steps must I take to have animals at my child-care center and/or on field trips?**

If you choose to have animals on the premises of your child-care center and/or on field trips, you must:

- (1) Notify parents in writing when animals are or will be present;
- (2) Ensure the animals do not create unsafe or unsanitary conditions;
- (3) Ensure that children do not handle any animal that shows signs of illness, such as lethargy or diarrhea; and
- (4) Ensure that caregivers and children practice good hygiene and hand washing after handling or coming in to contact with an animal and items used by an animal, such as water bowls, food bowls, and cages.

**Helpful Information**

Informing parents in writing when animals are or will be present in the child-care center and/or on field trips allows parents to decide whether to enroll their child and whether to prohibit or allow their child to have contact with the animals.

*Subchapter T, Physical Facilities  
Division 1, Indoor Space Requirements*

**§746.4207. Do these indoor activity space requirements apply to my child-care center if it was licensed before September 1, 2003?**

(a) Yes, the only exemption is for ~~Indoor activity space requirements for child-care centers licensed before September 1, 2003, vary based on the following:~~

~~(1) Child-care centers licensed as a day-care center before August 31, 1997, must have at least 30 square feet of indoor activity space, for each child you are licensed to serve. Children under 18 months of age must be cared for in rooms and outdoor activity space areas separate from older children unless there are 12 or fewer children in the child-care center.~~

~~(2) Child-care centers licensed as a day-care center between August 31, 1997, and September 1, 2003, must have at least 30 square feet of indoor activity space. Each child under 18 months of age must have 30 square feet of indoor activity space in the area in which you provide care. You must care for children under 18 months of age in rooms and outdoor activity space areas separate from older children unless there are 12 or fewer children in the child-care center.~~

~~(3) Child-care child-care centers licensed as kindergarten and nursery schools, or schools: grades kindergarten and above, before September 1, 2003. These centers, must have at least 20 square feet of indoor activity space for each child you are the center is licensed to serve.~~

~~(4) Child-care centers licensed as a drop-in child-care center or group day-care home before September 1, 2003, must have at least 30 square feet of indoor activity space for each child you are licensed to serve.~~

(b) The exemption ~~exemptions~~ specified in subsection (a) of this section remains ~~remain~~ in effect until a permit issued prior to September 1, 2003, is no longer valid.

**§746.4213. How does Licensing determine the indoor activity space?**

(a) We determine indoor activity space by:

(1) Measuring all indoor activity space wall to wall on the inside at floor level;

(2) Rounding all measurements up to the nearest inch; and

(3) Excluding single-use areas, which are areas not routinely used for children's activities, such as a bathroom, hallway, storage room, cooking area of a kitchen, swimming pool, and storage building. ~~See §746.105(43) of this title (relating to What do certain words and terms mean when used in this chapter?) for more information on single-use areas;~~ and

(4) Excluding floor space occupied by permanent and stationary fixtures, such as bookcases, shelving, and storage/counter space, that is not intended for use by the children.

(b) We use the sum of the measurements to calculate the indoor activity space and to determine the maximum number of children you may care for.

*Subchapter T, Physical Facilities*  
*Division 4, Furniture and Equipment*

**§746.4501. What type of tables and chairs must I use for ~~the~~ children?**

(a) Tables and chairs that you use for ~~the~~ children must be safe, easy to clean, and of a height and size appropriate for each age group in care.

(b) If the manufacturer requires safety straps on a chair, then the safety straps must be fastened whenever a child is using the chair.

**§746.4503. Must I provide a cot or a mat for each child to sleep or rest on?**

(a) Yes. You must provide or have the parent provide ~~the following~~ ~~(1) An individual crib meeting requirements specified in Subchapter H of this chapter (relating to Basic Care Requirements for Infants) for each non-walking child younger than 18 months to sleep or rest in;~~

~~(2) An an individual cot, bed, or mat that is waterproof or washable for each walking child through four years to sleep or rest on; and~~

~~(3) Individual arrangements for sleep or rest for children five years and older who are in care for more than five hours per day, or whose individual care needs require a nap or rest time.~~

(b) Cots, beds, or mats must be labeled with the child's name. As an alternative, you may label ~~Labeling~~ cots, beds, or mats with a number and have a number/child related to a number assignment map available ~~may be used as an alternative.~~

(c) Floor mats used for napping must be marked or colored so that the sleeping side can be distinguished from the floor side.

**§746.4507. Must I have a telephone at my child-care center?**

~~(a)~~ Yes. You must have:

(1) A telephone at your child-care center with a listed telephone number; or

(2) Access to a telephone located in the same building for use in an emergency and where a person is available to:

(A) Receive incoming calls to the child-care center;

(B) Immediately transmit messages regarding children in care to child-care center caregivers; and

(C) Make outgoing calls for the child-care center as necessary.

~~(b) The telephone must not be a coin-operated pay phone.~~

*Subchapter U, Indoor and Outdoor Active Play Space and Equipment*  
*Division 1, Minimum Safety Requirements*

**§746.4601. What minimum safety requirements must my active play equipment meet?**

Indoor and outdoor active play equipment used both at and away from the child-care center must be safe for the children as follows:

- (1) The indoor and outdoor active play equipment must be arranged so that caregivers can adequately supervise children at all times;
- (2) The design, scale, and location of the equipment must be used according to the manufacturer's instructions~~appropriate for the body size and ability of the children using the equipment;~~
- (3) - (11) (No change.)

**§746.4609. What is the maximum height allowed for the highest designated play surface, if ~~Do the height requirements apply to my child-care center if it was licensed before~~ September ~~December~~ 1, 2010?**

(a) If you were licensed ~~after September 1, 2003, and before~~ September ~~December~~ 1, 2010, ~~and unless you meet one of the conditions specified in subsection (b) of this section~~ the maximum height allowed for the highest designated play surface on of active play equipment ~~allowed~~ is:

- (1) Six feet for equipment designed to be used by children younger than five years ~~old~~of age; or
  - (2) Eight feet for equipment designed to be used by children ages five years old and older.
- (b) ~~A child-care center licensed before December 1, 2010, must comply with the equipment height requirements specified in this division if the~~ If your center re-designs the existing playground or adds new playground equipment, then as the changes are made you ~~The permit holder~~ must meet equipment height requirements specified in §746.4607 of this title (relating to What is the maximum height of the highest designated play surface allowed?)~~this division as the changes are made.~~ You must submit a written plan for compliance to us upon request.

*Subchapter U, Indoor and Outdoor Active Play Space and Equipment  
Division 5, Surfacing*

**§746.4907. How should outdoor loose-fill surfacing material be installed?**

- (a) ~~You~~ Subject to the requirements in subsection (f) of this section, you must install and maintain loose-fill surfacing materials to a depth of:
- (1) At least six inches when the height of the highest designated play surface is five feet or less; and
  - (2) At least nine inches when the height of the highest designated play surface is greater than five feet.
- (b) You must not install loose-fill surfacing materials over concrete or asphalt.
- (c) You must mark all equipment support posts to indicate the depth at which the loose-fill surfacing material must be maintained under and around the equipment.

(d) You must ensure the loose-fill materials are maintained at the proper depth at all times.

(e) Loose-fill surfacing materials must not be used indoors.

~~(f) If you were licensed before December 1, 2010, you only have to maintain at least six inches of loose-fill surfacing materials until December 1, 2015, after which date you must comply with subsection (a)(2) of this section when the height of the highest designated play surface is greater than five feet.~~

*Subchapter U, Indoor and Outdoor Active Play Space and Equipment  
Division 7, Inflatables*

**§746.4971. May I use inflatable active play equipment?**

~~You~~ ~~Yes, you~~ may use inflatable equipment both at and away from your child-care center ~~if you follow these as long as it meets the following guidelines:~~

- (1) ~~You use enclosed~~ ~~Enclosed~~ inflatables (such as bounce houses or moon bounces) ~~according to the manufacturer's instructions~~ ~~are used by one child at a time;~~
- (2) ~~You use open~~ ~~Open~~ inflatables (such as obstacle courses, slides, or games) ~~are used~~ according to the manufacturer's label and instructions for the user; and
- (3) Inflatables that include water activity also comply with all applicable requirements in Subchapter V of this chapter (relating to Swimming Pools, ~~and~~ Wading/Splashing Pools, and Sprinkler Play).

*Subchapter V, Swimming Pools, ~~and~~ Wading/Splashing Pools, and Sprinkler Play*

**DELETE §746.5009. Does having a fence relieve me of the duty to supervise children's access to the pool?**

**§746.5015. Are there specific safety requirements for sprinkler play?**

- (a) You must ensure that no child uses sprinkler equipment on or near a hard, slippery surface, such as a concrete driveway, sidewalk, or patio.
- (b) You must not leave a child alone with the sprinkler equipment.
- (c) You must store sprinkler equipment and water hoses out of the reach of children ~~children's reach~~ when not in use.
- (d) You must maintain your splash pad/sprinkler play area according to manufacturer's instructions.

*Subchapter W, Fire Safety and Emergency Practices  
Division 1, Fire Inspection*

**§746.5105. Must I make all corrections specified in the fire-inspection report?**

Yes, ~~if required~~, you must comply with all corrections, restrictions, or conditions specified by the inspector in the fire inspection report, letter, or checklist.

Subchapter W, Fire Safety and Emergency Practices  
Division 3, Fire Extinguishers and Smoke Detection Systems

**§746.5305. Where must I mount fire extinguishers?**

You must mount all ~~the~~ fire extinguishers on the wall by a hanger or bracket. The top of all ~~the~~ extinguishers must be no higher than five feet above the floor and the bottom at least four inches above the floor or any other surface. If the state or local fire marshal or the manufacturer's instructions has different mounting instructions, you ~~may~~must follow those instructions. All ~~The~~ fire extinguishers must be readily available for immediate use by employees and caregivers.

Subchapter X, Transportation

**§746.5607. What child passenger safety seat ~~restraint~~ system must I use when I transport children?**

(a) You must use a child passenger safety seat system to restrain a child when transporting the child. The restraint system must meet the federal standards for crash-tested systems as set by the National Highway Traffic Safety Administration and must be properly secured in the vehicle according to manufacturer's instructions.

(b) You must secure each child in an infant only rear-facing child safety seat, rear-facing convertible child safety seat, forward-facing child safety seat, child booster seat, safety vest, harness, or a safety belt, as appropriate to the child's age, height, and weight according to manufacturer's instructions for all vehicles specified in subsection (d) of this section, unless otherwise noted in this subchapter.

~~(b) All child passenger safety restraint systems must meet federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration, and must be properly secured in the vehicle according to manufacturer's instructions.~~

(c) - (d) (No change.)

**§746.5609. Must caregivers and/or the driver wear a safety belt?**

*Note: There are no changes to this rule, only clarifications were made to the Helpful Information box.*

**Helpful Information**

*Studies indicate the use of restraint devices while riding in a vehicle reduces the likelihood of a ~~passenger~~ passenger's suffering serious injury or death if the vehicle is involved in a vehicle crash suffering serious injury or death.*

**§746.5621. What Must I have a communication requirements are there for a device in the vehicle used to transport children?**

When transporting children in a vehicle~~You must have one of the following:~~

(1) The vehicle must have a~~A~~-communications device such as a cellular phone,  
~~message pager,~~ or two-way radio; or

(2) A caregiver at the child-care center must know~~that knows~~ the routine arrival and departure times of the vehicle and ~~takes~~ action if the vehicle does not return to the child-care center at a scheduled time. The driver must travel a known fixed route within an approximate timeframe.