

**COMPREHENSIVE REVIEW - CHAPTER 744**  
**FINAL DRAFT – April 15, 2017**  
**Minimum Standards for**  
**School-Age and Before or After-School Programs**

*Subchapter A, Purpose, Scope, and Definitions*

*Division 1, Purpose*

**§744.101. What is the purpose of this chapter?**

The purpose of this chapter is to set forth the minimum standards that apply to operations exclusively providing before and after-school care services as defined by the Human Resources Code (HRC) §42.002(20) and school-age program services as defined by the HRC ~~§42.002(22)~~ §42.002(21).

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

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

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

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

*Subchapter A, Purpose, Scope, and Definitions*

*Division 2, Scope*

**NEW §744.111. What types of operations do these minimum standards apply to?**

The minimum standards in this chapter apply to:

(1) Day-care operations licensed to provide before and/or after-school care program services;

(2) Day-care operations licensed to provide school-age program services;

(3) Any unlicensed day-care operation that requires a license per Human Resources Code (HRC), Chapter 42, because the operation provides before and/or after-school program services; and

(4) Any unlicensed day-care operation that requires a license per HRC, Chapter 42, because the operation provides school-age program services.

**NEW §744.113. Who is responsible for complying with these minimum standards?**

(a) For a licensed before or after-school program or school-age program, 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 operation does not offer. For example, if we license the operation to offer a before and after-school program, the operation does not have to comply with minimum standards that apply to nighttime-care programs; however, the operation must comply with all other minimum standards.

(b) For an unlicensed before or after-school program or school-age program that is subject to Licensing's regulation, the operation's director, owner, or person overseeing the operation or other controlling person who has the ability to influence or direct the operation'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 operation does not offer.

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

#### *Division 3, Definitions*

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

The following pronouns and 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).

#### **§744.123. 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 administration of an operation, such as bookkeeping, enrolling children, answering the telephone, and collecting fees.

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

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

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

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

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

(8) Caregiver--A person 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 (see Division 5 of Subchapter D (relating to Substitutes, Volunteers, and Contractors)).

(9) 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.

(10) 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 you must be able to document that the certificate represents the type of training described.

(11) 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.

(12) 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.

(13) Clock hour--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 §744.1319(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 §744.1319(a) and (b), or self-study training.

(14) 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.

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

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

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

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

(19) Entrap--A component or group of components on equipment that forms angles or openings that may 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.

(20) Field trips--Activities conducted away from the operation.

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

(22) Frequently--See the definition for "regularly or frequently present at an operation" at §745.601 of this title (relating to What words must I know to understand this subchapter?).

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

(24) Governing body--A group of persons or officers of a corporation or other type of business entity having ultimate authority and responsibility for the operation.

(25) 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.

(26) 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, nurses, or medical personnel not licensed to practice in the United States.

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

(28) 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.

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

(30) Inflatable--An amusement ride or device, consisting of air-filled structures designed for use 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.

(31) 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.

(32) Janitorial duties--Those duties that involve the cleaning and maintenance of the operation's 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.

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

(34) Multi-site operations--Two or more operations owned by the same person or entity, but the operations have separate permits. These operations may have centralized business functions, record keeping, and leadership.

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

(36) Nighttime care--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 operation between the hours of 9:00 p.m. and 6:00 a.m.

(37) Operation--A person or entity offering a before or after-school program or school-age program that is subject to Licensing's regulation. An operation includes the building and the premises where the program is offered, any person involved in providing the program, and any equipment used in providing the program.

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

(39) Owner--The sole proprietor, partnership, corporation, or other type of business entity who owns the operation.

(40) Permit holder--The owner of the operation that is granted the permit.

(41) 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:

(A) Operation voluntarily closes;

(B) Operation must close because of an enforcement action in Subchapter L of Chapter 745 (relating to Enforcement Actions);

(C) Permit expires according to §745.481 of this title (relating to When does my permit expire?); or

(D) Operation must close because its permit is automatically revoked according to the Human Resources Code §§42.048(e), 42.052(j), or 42.054(f).

(42) Premises--Includes the operation, any lots on which the operation is located, any outside ground areas, any outside play areas, and the parking lot.

(43) Program--The services and activities provided by an operation.

(44) Program director--A director who oversees your program at multi-site operations and supervises a site director at each operation.

(45) Regular--On a recurring, scheduled basis.

(46) Regularly or frequently present at an operation--See §745.601 of this title (relating to What words must I know to understand this subchapter?).

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

(48) 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 labelling instructions for sanitizing (paying attention to any instructions regarding contact time and toxicity on surfaces likely to be mouthed by children). For an EPA-registered sanitizing product or disinfecting solution that does not include labelling 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.

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

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

(51) 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.

(52) 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.

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

(54) 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.

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

(56) 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.

(57) 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*

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

You are responsible for the following:

- (1) (No change.)
- (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) - (5) (No change.)
- (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 operation any time during your hours of operation to observe their child, program activities, the building, the premises 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 American-with Disabilities Act, which applies to commercial public accommodations; and
- (11) Ensuring the total number of children in care at the operation or away from the operation, such as during a field trip, never exceeds the licensed capacity of the operation.

*Subchapter B, Administration and Communication*

*Division 2, Required Notifications*

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

You must notify us in writing before:

- (1) Changing the address or location of the operation;
- (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 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 the ownership of an operation as specified in §745.437 of this title (relating to What is a change in the ownership of an operation?).

#### Helpful Information

- As events occur or changes are made to the program, health and safety conditions may change. Licensing may need to verify that minimum standard rules related to the changes are in compliance to ensure the continuing safety of children in care.
- 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. A license cannot be bought, sold, or transferred and is only valid for the location/address noted on the license.

### §744.303. What changes must I notify Licensing of regarding the operation's designee, governing body, and directors, ~~a director or the program at my operation?~~

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

- (1) ~~Sale or transfer of the operation's ownership (including but not limited to incorporation of an existing operation);~~
- (2) ~~The governing body~~ designee of an operation that is not a sole proprietorship. The designee for a sole proprietorship is the sole proprietor;
- (3) ~~The board chair for a corporate facility or other executive officer of the governing body;~~
- (4) ~~The address of the operation's governing body or its~~ designee or governing body; and
- (5) ~~A 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 program.
- It is important that DFPS know, in a timely manner, who has been designated as director in order to ensure that qualifications are met and the operation of the program is not at risk.

### §744.305. What other situations require notification to Licensing?

- (a) You must notify us as soon as possible, but no later than two days after:
- (1) Any occurrence that renders all or part of your operation unsafe or unsanitary for a child, ~~for example loss of electricity or water, or weather related damage that prevents the safe use of the operation;~~
  - (2) - (6) (No change.)
- (b) (No change.)

### Helpful Information

- Regarding paragraph (a)(1), ~~Examples of occurrences that may render an operation unsafe or unsanitary~~ unhealthy include sewer backups, flood, fire or storm damage, or the lack of running water. ~~Notifying parents enables them to protect their children from high-risk situations.~~
- 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*

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

You must post the following items:

- (1) Your license;
- (2) The letter or form from the most recent Licensing inspection or investigation;
- (3) The Licensing notice *Keeping Children Safe*;
- (4) Your emergency evacuation and relocation diagram as specified in §744.3561 of this title (relating to Must I have an emergency evacuation and relocation diagram?);
- (5) The activity plan for each group of children, if required by §744.2005 of this title (relating to Must caregivers have written activity plans?);

(6) The daily menu, if applicable, including all snacks and meals prepared or served by the operation;

(7)~~(6)~~ The Licensing *Parent Notification Poster*;

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

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

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

#### **§744.405. 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 operation's telephone number, ~~operation-name, and address, and telephone number~~.

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

~~(c) If you use cellular phone service at your operation, you must ensure dialing 911 directs emergency personnel to the address or location of your operation~~location~~.~~

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

Subchapter B, Administration and Communication  
Division 4, Operational Policies

**§744.501. What written operational policies must I have?**

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 medication 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 G of this chapter (relating to Discipline and Guidance). A copy of Subchapter G may be used for your discipline and guidance policy, unless you use disciplinary and training measures specific to a skills-based program, as specified in §744.2109 of this title (relating to May I use disciplinary measures that are fundamental to teaching a skill, talent, ability, expertise, or proficiency?);
- (8) Suspension and expulsion of children;
- (9) ~~(8)~~ Meals and food service practices;
- (10) ~~(9)~~ 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;
- (11) Enrollment procedures, including how and when parents will be notified of policy changes;
- (12) Transportation, if applicable;
- (13) Water activities, if applicable;
- (14) Field trips, if applicable;
- (15) Animals, if applicable;
- (16) Procedures for providing and applying, as needed, insect repellent and sunscreen, including what types will be used, if applicable;
- (17) ~~(16)~~ The procedures for parents to review and discuss with the director any questions or concerns about the policies and procedures of the operation;
- (18) ~~(17)~~ The procedures for parents to visit the operation at any time during your hours of operation to observe their child, program activities, ~~and~~ the building, the premises ~~grounds~~, and equipment without having to secure prior approval;
- (19) ~~(18)~~ The procedures for parents to participate in the operation's activities;
- (20) ~~(19)~~ The procedures for parents to review a copy of ~~the minimum standards and~~ the operation's most recent Licensing inspection report and how the parent may access the minimum standards online;
- (21) ~~(20)~~ 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) ~~(21)~~ Emergency preparedness plan;

~~(23)~~~~(22)~~ Procedures for conducting health checks, if applicable; and  
~~(24)~~~~(23)~~ Vaccine-preventable diseases for employees, unless your operation is in the home of the permit holder, the director, or a caregiver. The policy must address the requirements outlined in §744.2581 of this title (relating to What must a policy for protecting children from vaccine-preventable diseases include?).

### Helpful Information

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 operation. Additional information regarding a policy for suspension and expulsion can be found in the DFPS Technical Assistance Library.

### **§744.503. 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.

### Helpful Information

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

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

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

*Subchapter C, Record Keeping*

**§744.603. 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 operation:

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

(2) Admission information as specified in §744.605 of this title (relating to What admission information must I obtain for each child?);

(3) Immunization records;

(4) Tuberculosis screening and Tubeculin-testing information, if applicable-required by your regional Texas Department of State Health Services or local health authority;

(5) Licensing *Incident/Illness Report* form, if applicable;

(6) A daily tracking system for when a child's care begins and ends~~Sign-in and sign-out tracking information~~ as specified in §744.627 of this title (relating to Must I have a system for signing children in and out of my care?);

(7) Medication administration records, if applicable; and

(8) 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.)

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

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

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

(8) Permission for transportation, if provided, including any authorized pick-up and drop-off locations;

(9) - (16) (No change.)

**Helpful Information**

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

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

- (a) Each child enrolled or admitted to your operation must meet and continue to meet applicable immunization requirements specified by the Texas Department of State Health Services (DSHS) ~~as specified 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 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 you verify the exemption or exception by the date of admission; or
  - (2) The child is homeless or in foster care and is provisionally admitted for up to 30 days because 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**

*The current immunization requirements can be found at <http://www.immunizetexas.com>. 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 §744.615. 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 §744.615. Are there exemptions for immunization requirements?**

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

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

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

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

Acceptable documentation includes:

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

(2) An official immunization record generated from a state or local health authority, including a record from another state. Examples include a record 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

(3) An official immunization record or photocopy. An example includes a record 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; and

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

**§744.627. 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 operation 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

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

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

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

Yes. After the caregiver completes the form, the ~~The~~ director of the operation or, if the director is not available, the person designated to be in charge of the operation must sign and date the completed report.

Subchapter C, Record Keeping  
Division 3, Records That Must Be Kept On File at the Operation

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

You must maintain and make the following records available for our review upon request, during your hours of operation. Paragraphs (13), (14), and (15) ~~(18), (19), and (20)~~ of this section 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) Personnel and training records according to Division 4 of this subchapter (relating to Personnel Records), ~~unless on file at a central administrative location;~~
- (3) Licensing Director's Certificate;



- (4) Attendance records or time sheets listing all days and hours worked for each employee~~employees~~;
- (5) Children's program activity plans for each age group in care for more than four hours per day;
- ~~(6) Verification of liability insurance or notice of unavailability, if applicable;~~
- ~~(7) Proof of request for all background checks required by Chapter 745, Subchapter F of this title (relating to Background Checks);~~
- ~~(8) Daily menus for food prepared or served at the operation;~~
- ~~(6)(9) Medication records, if applicable;~~
- ~~(7)(10) Playground maintenance checklists;~~
- ~~(8)(11) Pet vaccination records, if applicable;~~
- ~~(9)(12) Safety~~Fire safety documentation for emergency drills, fire extinguishers, and smoke detectors;
- ~~(13) Most recent Licensing inspection report, letter, or notice requiring posting;~~
- ~~(10)(14) Most recent fire inspection report, including any written approval from the fire marshal to provide care above or below ground level, if applicable;~~
- ~~(11)(15) Most recent sanitation inspection report;~~
- ~~(12)(16) Most recent gas inspection report, if applicable;~~
- ~~(13)(17) Most recent Texas Department of State Health Services' immunization compliance review form, if applicable;~~
- ~~(14)(18) Most recent Texas Department of Agriculture Child and Adult Care Food Program (CACFP) report, if applicable;~~
- ~~(15)(19) Most recent local workforce board Child-Care Services contractor inspection report, if applicable;~~
- ~~(16)(20) Record of pest extermination, if applicable; and~~
- ~~(21) Written approval from the fire marshal to provide care above or below ground level, if applicable; and~~
- ~~(17)(22) A daily tracking system for~~ System to track when a child's care begins and ends as specified in §744.627 of this title (relating to Must I have a system for signing children in and out of my care?)~~daily.~~

### 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 operation or counted in

the child/caregiver ratio. For more information see §744.1401 of this title (relating to What minimum standards must substitutes, volunteers, or persons under contract with my operation comply with?).

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

(a) If you are required to post or keep a record in this chapter, you must keep the record at your operation for at least three months from the date the record was created unless otherwise stated. ~~You must keep records at the operation for at least three months from the date the record was created, unless otherwise stated in this chapter.~~

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

*Subchapter C, Record Keeping  
Division 4, Personnel Records*

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

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

**§744.909. 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, Director*

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

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

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

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

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

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

(c) (No change.)

### Helpful Information

- A director plays a crucial role in ensuring the smooth day-to-day operation of the program by balancing business concerns with what's good for children and by providing leadership and direction to the caregivers responsible for providing safe and healthy care for the children.
- You must notify Licensing of changes in directors as specified in §744.303 of this title (relating to What changes must I notify Licensing of regarding the operation's designee, governing body, and directors?).

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

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

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

(1) Nine site directors at multi-site ~~multiple~~ before and after-school care programs ~~operated by the same governing body;~~ or

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

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

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

### Helpful Information

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

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

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

Education	Experience
(1) A bachelor's degree with six college credit hours in management,	and at least one year of experience in a licensed operation or similar experience as specified in §744.1021 of this title (relating to What types of experience may count towards meeting director qualifications?);
(2) An associate's of applied science degree in child development or a closely related field with six college credit hours in child development and six college credit hours in management. A "closely related field" is any educational instruction pertaining to the growth, development, physical or mental care, or education of children ages birth through 13 years,	and at least two years of experience in a licensed operation or similar experience as specified in §744.1021 of this title;
(3) Sixty college credit hours with nine college credit hours in child development and six college credit hours in management,	and at least two years of experience in a licensed operation or similar experience as specified in §744.1021 of this title, or instructor certification and one year experience in training others in a skill, talent, ability, expertise, or proficiency that is the goal of skill instruction or training that is a core component of your operation's program;
(4) A Child Development Associate credential or Certified Child-Care Professional credential with six college credit hours in management,	and at least two years of experience in a licensed operation or similar experience as specified in §744.1021 of this title;
(5) A child-care administrator's certificate from a community college with at least 15 college credit hours in child development and three college credit hours in management,	and at least two years of experience in a licensed operation or similar experience as specified in §744.1021 of this title;
(6) A day-care administrator's credential issued by a professional organization or an educational institution and approved by Licensing based on criteria specified in Subchapter P of Chapter 745 of this title (relating to Day-Care Administrator's Credential Program),	and at least two years of experience in a licensed operation or similar experience as specified in §744.1021 of this title; or

<p>(7) Nine college credit hours in child development and nine college credit hours in management,</p>	<p>and at least three years of experience in a licensed operation or similar experience as specified in §744.1021 of this title, or instructor certification and one year experience in training others in a skill, talent, ability, expertise, or proficiency that is the goal of skill instruction or training that is a core component of your operation's program.</p>
--	--

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

### Helpful Information

- Knowledge of good business practices and administration are essential for managing a school-age or before or after-school program. A director has an obligation to be prepared to hire and maintain employees, establish and maintain communication with parents, and ensure the health, safety and well-being of the children in her care.
- Options (4) and (6) of this section require periodic renewal for the operation director or program director to remain qualified, as specified in §744.1051 of this title (relating to Will a director's certificate expire?) and §744.1053 of this title (relating to How often must an expiring certificate be renewed?).

### **§744.1017. What qualifications must a site director meet?**

(a) - (b) (No change).

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

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

(2) You provide Licensing a written plan describing the oversight the program director will be providing the site director until the required education is completed. If applicable, the plan must include the sharing of director responsibilities as ~~The written plan~~-required in §744.1005(b) of this title (relating to What are the director's responsibilities?) ~~includes appropriate program director oversight until the required education is completed.~~

### DELETE §744.1019. Are any directors exempt from the qualifications?

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

Yes. To determine whether a person has sufficient experience to qualify as a director, we may, at our own discretion, verify the person's child-care ~~your~~ experience and

substitute child-care experience via the Internet, telephone or mail contact with previous employer(s), or through our records.

**NEW §744.1029. What documentation must I provide to show that my director meets 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, so that Licensing may determine whether the course is recognized as child development or management.

**DELETE §744.1029. What are clock hours?**

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

**DELETE §744.1033. What are CEUs?**

**§744.1035. 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 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 management.

(c) The documentation to verify the clock hours or CEUs must be as specified in §744.1331 of this title (relating to What documentation must I provide to Licensing to verify that training requirements have been met?).

**§744.1037. What additional kind of documentation must I submit to Licensing to show my 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 operation:

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

~~(2) A completed Licensing Request for Criminal History and Central Registry Check form or proof a background check request was made online;~~

~~(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 Director's Certificate form, or an original college transcript or original training certificates which verify the educational requirements.~~ Original letters may be substituted for training certificates, provided they

include the same information as specified in §744.1331 of this title (relating to What documentation must I provide to Licensing to verify that training requirements have been met?); and

(4) Complete ~~and complete~~ dates, names, addresses, and telephone numbers which support the required experience. ~~Original letters may be substituted for training certificates, provided they include the same information as specified in §744.1331 of this title (relating to What documentation must I provide to Licensing to verify that training requirements have been met?).~~

(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 operation director, program director, or site director.

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

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

**§744.1051. Will a ~~the~~ director's certificate expire?**

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

(b) A site director's certificate will not expire.

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

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

**§744.1055. What happens if my operation director's or program director's credential expires ~~I do not submit the documentation confirming the credential is current?~~**

We will give you a deadline for your operation director or program director to submit the required documentation or for you to designate another qualified director. If your

operation director or program director allows the certificate to expire without submitting the required documentation confirming that the credential is current, then your operation will and no longer meet the minimum standards ~~meets requirements for that a center director position, you violate minimum standards.~~

*Subchapter D, Personnel  
Division 2, Employees and Caregivers*

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

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

Each 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 he is the employee ~~is~~ free of contagious TB, if required by the 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 operation as specified in Division 4 of this subchapter (relating to Professional Development).

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

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

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

#### **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 operation.</u>	<u>Orientation to the operation;</u>
	<u>18 years old or older;</u>
	<u>High school diploma or equivalent;</u>
	<u>Eight hours of pre-service training (before being counted in the child/caregiver ratio); and</u>
	<u>15 hours of annual training.</u>

**§744.1107. 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 operation ~~or a group of children;~~

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

(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 the eight 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 operation;

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

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

(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 the eight 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 §744.1111. What does Licensing mean by the term "high school equivalent"?

*Subchapter D, Personnel*

*Division 3, General Responsibilities for Personnel*

### **§744.1203. 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 §744.1301. What training must I ensure that my employees have?

### NEW §744.1301. 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 operation within seven days of employment;</u>	<u>All employees.</u>
<u>(2) Eight clock hours of pre-service training;</u>	<u>Only caregivers, although a caregiver may be exempt from pre-service training as specified in §744.1307 of this title (relating to Are any caregivers exempt from the pre-service training?).</u>
<u>(3) 15 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 §744.1315 of this title (relating to Who must have first-aid and CPR training?).</u>
<u>(5) Transportation training.</u>	<u>Any employee who transports a child whose chronological or developmental age is younger than nine years old, as specified in §744.1317 of this title (relating to What additional training must an employee have in order to transport a child in care?).</u>

**§744.1315. 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?

**§744.1317. 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 ~~development~~ 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.

**§744.1319. 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 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~~ Instructor-led and self-instructional training, excluding self-study 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.

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

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

(1) Meets the criteria specified in §744.1319 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 §744.1331.

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

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

(1) The ~~if the~~ caregiver or director provides ~~is able to provide~~ documentation of training, as specified in §744.1331 of this title (relating to What documentation must I provide to Licensing to verify that training requirements have been met?);

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

**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 operation she previously worked for. The caregiver would only need 18 additional hours of annual training for June 1, 2016 - May 31, 2017.

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

Subchapter D, Personnel

Division 5, Substitutes, Volunteers, ~~Substitutes,~~ and Contractors ~~Persons Under Contract~~

**DELETE §744.1401. With what minimum standards must substitutes comply?**

[Also, delete the Helpful Information box.]

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

[Also, delete the Helpful Information box.]

**NEW §744.1401. What minimum standards must substitutes, volunteers, or persons under contract with my operation comply with?**

(a) For purposes of this rule:

(1) Persons under contract with your operation 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 operation 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.

**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 Equipment  
Division 1, Activities and Activity Plans*

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

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

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

- (2) Encouraging communication and expression of feelings in appropriate ways;
- (3) Study time for those children who choose to work on homework assignments;
- (4) Physical care routines appropriate to each child's developmental needs; and
- (5) A caregiver who is aware of the arrival and departure of each child, including dismissing children who ride the bus or walk home.

(b) In addition, the following activities must be included for programs where children are anticipated to be ~~who are~~ in care five or more consecutive hours in a day:

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

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

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

(4) Regular meal and snack times as specified in Subchapter J of this Chapter §744.2403 of this title (relating to Nutrition and Food Service ~~How often must I feed children in my care?~~);

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

(6) Both:

(A) Child-initiated activities, which are 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) Caregiver-initiated activities, which are activities that are directed or chosen by the caregiver; ~~child-initiated and caregiver-initiated activities;~~

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

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

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

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

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

### **Helpful Information**

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

- Self-care activities such as toileting and hand washing;
- Transitioning from one activity to another;
- Saying goodbye to a parent; and
- Communicating with peers.

#### **§744.2005. Must caregivers have written activity plans?**

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

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

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

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

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

#### **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 an operation 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.

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

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

#### **Helpful Information**

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



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

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

**(a) Each disciplinary measure must:**

- (1) Be consistent with your policies and procedures;
- (2) Not be physically or emotionally damaging to the child;
- (3) Be appropriate to the child's age and level of understanding; and
- (4) Be appropriate to the incident and severity of the behavior demonstrated.

**(b) A caregiver may only use positive methods of discipline and guidance that encourages self-esteem, self-control, and self-direction, including ~~which include at least~~**  
the following:

- (1) Using praise and encouragement of good behavior instead of focusing only upon unacceptable behavior;
- (2) Reminding a child of behavior expectations daily by using clear, positive statements;
- (3) Redirecting behavior using positive statements; and
- (4) Using brief supervised separation or time out from the group, when appropriate for the child's age and development, which is limited to no more than one minute per year of the child's age.

**Helpful Information**

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

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

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.

**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 §744.2111. Must I have a written discipline and guidance policy?**

**DELETE §744.2113. Must I give a copy of my written discipline and guidance policy to parents and my employees?**

**DELETE §744.2115. How often must I update written discipline and guidance policy?**

*Subchapter H, Naptime  
Division 1, Naptime*

**§744.2207. Must I provide an alternative activity for those children who cannot sleep?**

Yes. You must allow each child who is awake after resting or sleeping for 30 minutes ~~one hour~~ to participate in an alternative, quiet activity until the nap/rest time is over for the other children.

**§744.2211. 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 I, Field Trips*

**§744.2301. May I take children away from my operation for field trips?**

*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 operation 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 operation 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 (relating to Child/Caregiver Ratios and Group Sizes).

**DELETE §744.2305. Must I have additional caregivers present to take children on a field trip?**

*Subchapter J, Nutrition and Food Service*

**§744.2409. May parents provide meals and or snacks for their children instead of my operation 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 operation; and

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

**§744.2411. How should my operation meet the needs of children who require special diets or do not want to eat foods the operation serveswe serve?**

(a) - (d) (No change.)

**§744.2413. Can I make substitutions and/or rotate the ~~Must I post and maintain~~ daily menus?**

Yes. ~~When children are in care for five or more consecutive hours per day, you must:~~

~~(1) Post daily menus showing all meals and snacks prepared and served by the operation where parents and others can see them as specified in §744.403 of this title (relating to When and where must these items be posted?);~~

~~(2) Keep a record of any substitutions made.~~ Substitutions must be of comparable food value may be made to the daily menu, but you must keep a record of any substitutions; and

~~(3) Date menus and keep copies for review at least the previous three months; and~~

~~(2)(4) You may~~ if you rotate menus, but you must keep a record of which menu was used for each date.

**§744.2417. What general requirements apply to food service and preparation?**

Note: There are no changes to this rule, only an addition to the Helpful Information box was made.

### Helpful Information

- 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 K, Health Practices  
Division 1, Environmental Health

#### **§744.2501. Must my operation have an annual sanitation inspection?**

(a) Your operation must have a sanitation inspection before we issue your initial permit and at least once every 12 months, unless your operation is located in a public school facility operated by the local independent school district.

(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 operation and make it available to us upon request.

#### **§744.2505. 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.

#### **§744.2507. What steps must I take to ensure a health environment for children at my operation?**

Note: There are no changes to this rule, only minor changes to the Helpful Information box was made.

### 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 §744.2509. What does Licensing mean when it refers to "sanitizing"?**

**DELETE §744.2511. What is a disinfecting solution?**

**§744.2515. When must employees wash their hands?**

Employees must wash their hands:

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

(6) After handling or cleaning bodily ~~body~~-fluids, such as after tending sores and wiping noses, mouths, or bottoms, ~~and tending sores;~~

(7) - (9) (No change.)

(10) After eating, drinking, or smoking; ~~and~~

(11) After using any cleaners or toxic chemicals; and

(12) After removing gloves.

**§744.2517. When must children wash their hands?**

*Note: There are not changes to this rule, only the addition of a Helpful Information box.*

**Helpful Information**

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

**§744.2519. How must children and employees wash their hands?**

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

**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 settings.*

- ~~The use of alcohol-based hand sanitizers does not substitute for hand washing in the group care setting. Alcohol-based hand sanitizers are flammable and toxic if ingested by children.~~
- 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.

**NEW §744.2520. 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 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;

(2) You follow the labelling 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;

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

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

**Helpful Information**

- The use of hand sanitizers does not substitute for hand washing in the group care setting.
- Supervision of children is required to monitor the effective use of hand sanitizers and to avoid potential ingestion or inadvertent contact with a child's eyes, mouth, or nose.

*Subchapter K, Health Practices*

*Division 2, Toileting*

**§744.2551. What steps must caregivers follow for assisting children with toileting?**

Caregivers must:

(1) - (4) (No change.)

(5) Place soiled ~~and wet~~ clothing in a tied, individual sealed, or otherwise closed plastic bag ~~bags~~.

*Subchapter K, Health Practices*

*Division 3, Illness and Injury*

**§744.2571. What types of illness would prohibit a child from attending the operation being admitted for care?**

You must not allow an ill child to attend your operation ~~admit an ill child for care~~ if one or more of the following exists:

- (1) The illness prevents the child from participating comfortably in the operation program 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 your operation's ~~the program'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. ~~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; or
  - A toilet-trained child's diarrhea is causing soiled pants and clothing.

**§744.2573. What communicable diseases would exclude a child from attending my operation?**

You must follow the communicable disease exclusions required for schools as defined by the Texas Department of State Health Services (DSHS) in 25 TAC §97.7 (relating to Diseases Requiring Exclusion from Schools). ~~You can access this information from the Department of State Health Services or Licensing staff.~~

**Helpful Information**

You can access the DSHS rule at [http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC) by clicking on "Title 25 Health Services", clicking on "Part 1 Department of State Health Services", clicking on "Chapter 97 Communicable Diseases", clicking on Subchapter A Control of Communicable Diseases", and clicking on "97.7 Diseases Requiring Exclusion from Schools".

**NEW §744.2576. When may a child who was ill return to my operation?**

A child who was ill may return to your operation 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.

**§744.2577. 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; ~~and~~
- (4) Contact the physician or other health-care professional identified in the child's record; and
- (5) Ensure supervision of other children in the group.

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

**§744.2601. What safety precautions must I take to protect children in my operation?**

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 (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.*

### **§744.2603. How can I ensure the safety of children from other persons?**

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

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

### **§744.2607. Are firearms or other weapons allowed at my operation?**

(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 operation.

(b) For all other persons, firearms, hunting knives, bows and arrows, and other weapons are prohibited on the premises of the operation, unless the operation is also your home residence and except as allowed under subsection (e) of this section. This prohibition does not apply to personal vehicles.

(c) - (e) (No change.)

**§744.2609. May I have ~~other toys or~~ other types of equipment that explode ~~explodes or shoot 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 operation or on field trips.~~ These types of toys and equipment are not allowed at your operation unless your operation is located in your home. ~~for children in both residential and non-residential locations.~~ If your Toys that explode or shoot things kept on the premises of an operation is located in your home, you must keep any such toy or equipment ~~remain~~ in a locked cabinet inaccessible to any child during your hours of operation.

*Subchapter L, Safety Practices*

*Division 2, Medication and Medical Assistance*

**§744.2651. 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 insect repellent and sunscreen.

*Subchapter L, Safety Practices*

*Division 3, Animals at the Operation*

**§744.2701. What steps must I take to have animals at my operation and/or on a field trip?**

If you choose to have animals on the premises of your operation and/or on a field trip, 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 at in the operation 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 L, Safety Practices*

### §744.2801. To whom may I release children?

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

#### Helpful Information

- If you suspect the person picking up a child is under the influence of drugs or alcohol, you may call local police and request their assistance.
- You may not legally prevent the child from being picked up by a parent or person designated by the parent; however, you may address this issue at enrollment by asking parents what they would like for you to do if you do not feel comfortable releasing the child to one of the parents and signing an agreement to this effect.
- Law enforcement officers and DFPS Child Protective Services staff have the authority by law to remove a child without a parent's permission.
- Always ask to see the identification of persons you do not know.

#### Subchapter M, Physical Facilities

#### Division 1, Indoor Space Requirements

### §744.2905. Do these indoor activity space requirements apply to my operation if it was licensed before September 1, 2010?

(a) Yes, the only exemption is for operations ~~Indoor activity space requirements for operations licensed before September 1, 2010, vary based on the following:~~

~~(1) Operations licensed as a day-care center before August 31, 1997, must have at least 30 square feet of indoor activity space for each child you are licensed to serve;~~

~~(2) Operations licensed as a day-care center or child-care center between August 31, 1997, and September 1, 2010, must have at least 30 square feet of indoor activity space for each child you are licensed to serve.~~

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

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

(b) The exemption ~~exemptions~~ specified in subsection (a) of this section remains ~~remain~~ in effect until a permit issued prior to September 1, 2010, is no longer valid.

### §744.2907. How does Licensing determine the indoor activity space?

(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 §744.105(42) of this title (relating to What do certain words and terms mean when used in this chapter?) for a definition of single-use areas;~~ and

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

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

*Subchapter M, Physical Facilities*

*Division 3, Toilets and Sinks*

**§744.3003. Where must I locate hand-washing sinks for children's use?**

Hand-washing sinks must be inside the operation. Children must be able to safely and independently access the sink. Hand-washing sinks must be equipped with soap, running water, and single-use disposable towels or hot-air hand dryers. ~~Refer to Subchapter K of this chapter (relating to Health Practices) for further information on hand washing.~~

**Helpful Information**

For further information regarding hand-washing, see Division 1 of Subchapter K (relating to Environmental Health).

**§744.3007. Where must the toilets be located?**

Toilets must be inside the operation and include toilet paper. Children must be able to safely and independently access the toilet. Toilets must be equipped for independent use by children and allow supervision by caregivers, as needed.

*Subchapter M, Physical Facilities*

*Division 4, Telephone*

**§744.3051. Must I have a telephone at my operation?**

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

(1) A telephone at your operation 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 operation;

(B) Immediately transmit messages regarding children in care to operation caregivers; and

(C) Make outgoing calls for the operation as necessary.

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

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

**§744.3101. What minimum safety requirements must my active play equipment meet?**

(a) Indoor and outdoor active play equipment used both at and away from the operation 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) - (10) (No change.)

(11) If you are licensed to provide only care in a public school facility operated by the local independent school district, you must inform parents in writing at the time they enroll their child if the active play equipment ~~or space~~ you plan to use at the public school facility does not meet Licensing standards specified in this subchapter.

Otherwise, children must not be allowed to use equipment that does not meet Licensing standards.

(b) (No change.)

**§744.3107. Are there additional equipment restrictions for children younger than five years of age?**

(a) (No change.)

(b) In addition, children younger than four years of age must not be allowed to use the following pieces of equipment at or away from the operation:

(1) Chain or cable walks;

(2) Horizontal ladders;

(3) Vertical slide poles; ~~or~~

(4) Over-head swinging rings; or

(5) Parallel ~~and parallel~~ bars.

(c) (No change.)

**§744.3111. What is the maximum height allowed for the highest designated play surface if ~~Do the height requirements apply to~~ my operation ~~if it was licensed before September 1, 2010?~~**

(a) If you were licensed ~~after September 1, 2003, and before September 1, 2010, and unless you meet one of the conditions specified in subsection (b) of this section~~ the

maximum height allowed for the highest designated play surface on ~~ef~~ active play equipment ~~allowed~~ is:

- (1) Six feet for equipment designed to be used by children younger than ~~under the age of~~ five years old; or
  - (2) Eight feet for equipment designed to be used by children five years old and older.
- (b) ~~An operation licensed before September 1, 2010, must comply with the equipment height requirements specified in this division if the~~ If your operation 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 §744.3109 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 N, Indoor and Outdoor Active Play Space and Equipment  
Division 3, Use Zones*

#### **§744.3203. How do I measure the use zone for stationary equipment?**

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

Stationary equipment (also known as a ~~A~~ composite play structure) refers to playscapes, or structures containing equipment for a variety of activities, such as slides, climbing apparatus, bridges and platforms.

#### **§744.3209. How do I measure the use zone for tire swings?**

- (a) (No change.)
- (b) The use zone specified in ~~is~~ subsection (a) of this section must not overlap any other use zone.
- (c) (No change.)

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment  
Division 4, Surfacing*

#### **§744.3251. What type of surfacing must I have under my active play equipment?**

- (a) There must be loose-fill surfacing material or unitary surfacing material in the use zones for all climbing, rocking, rotating, bouncing, or moving equipment, slides, and swings.
- (b) The height of the highest designated play surface on the equipment will determine the ~~type and~~ depth of loose materials or the attenuation rating (thickness) of the unitary materials.

### **§744.3255. How should outdoor loose-fill surfacing material be installed?**

- (a) If you use loose-fill surfacing materials in your outdoor active play space, you must install and maintain nine inches or more of uncompressed loose-fill material in the use zones. ~~However, if you were licensed before September 1, 2010, you only have to maintain at least six inches of loose-fill surfacing materials until September 1, 2015; after which date you must maintain at least nine inches of uncompressed loose-fill surfacing materials.~~
- (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.

*Subchapter N, Indoor and Outdoor Active Play Space and Equipment  
Division 6, Inflatables*

### **§744.3351. May I use inflatable active play equipment?**

You ~~Yes, you~~ may use inflatable equipment both at and away from your operation if you follow these guidelines as long as:

- (1) You use enclosed ~~Enclosed~~ inflatables (such as bounce houses or moon walks) 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 instructions; and
- (3) Inflatables that include water activity also comply with all applicable requirements in Subchapter O of this chapter (relating to Swimming Pools, and Wading/Splashing Pools, and Sprinkler Play).

*Subchapter O, Swimming Pools, and Wading/Splashing Pools, and Sprinkler Play*

### **DELETE §744.3409. Does having a fence relieve me of the duty to supervise children's access to the pool?**

### **§744.3413. 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 P, Fire Safety and Emergency Practices*  
*Division 1, Fire Inspection*

**§744.3505. 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 P, Fire Safety and Emergency Practices*  
*Division 2, Emergency Preparedness*

**§744.3561. Must I have an emergency evacuation and relocation diagram?**

(a) (No change.)

(b) You must post an emergency evacuation and relocation diagram in each room the children use. You must post the diagram plan near the entrance and/or exit of the room and where children and employees may easily view the diagram.

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

**§744.3605. 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.

**§744.3607. How often must I inspect and service the fire extinguisher(s)?**

(a) The director or designee must inspect all fire extinguisher(s) monthly. The date of the inspection and the name of the director or designee who inspects the extinguisher(s) employee must be recorded and kept at the operation for review during your hours of operation.

(b) Fire extinguishers must be serviced as required by manufacturer's instructions, or as required by the state or local fire marshal.

**§744.3619. How often must the smoke detectors at my operation be tested?**

The director or designee must test all smoke detectors monthly. The date of the test and the name of the director or designee employee who does the testing must be documented and kept at the operation for review during your hours of operation.

**Helpful Information**



A monthly test of smoke detectors is easily handled by the operation director or designee~~employees~~. Monthly testing ensures detectors are working properly and helps ensure the safety of the children and employees in case of fire.

*Subchapter P, Fire Safety and Emergency Practices*  
*Division 6, Carbon Monoxide Detection Systems*

**§744.3757. How often must I inspect and service the carbon monoxide detection system?**

- (a) If you use electric or battery-operated carbon monoxide detectors, ~~you must:~~
- (1) The director or designee must install ~~install~~ a new battery in each battery-operated detector at least annually;
  - (2) The director or designee must test ~~Test~~ all detectors monthly;
  - (3) The ~~Document the~~ date of each monthly test, date of each installation of new batteries, and the name of the director or designee ~~employee~~ who does the ~~each testing~~ ~~or~~ ~~installation of new batteries~~ and each testing must be recorded and kept; ~~and~~
  - (4) ~~Keep this documentation~~ at the operation for review during your hours of operation.
- (b) If you use an electronic carbon monoxide detection system connected to an alarm/smoke detection system, you must:
- (1) Ensure the system monitoring company or the state or local fire marshal tests the system at least annually;
  - (2) Keep the most recent inspection report at the operation for review during your hours of operation;
  - (3) Ensure the report includes the date of the inspection and the inspector's name and telephone number; and
  - (4) Make any corrections required in the report.

*Subchapter Q, Transportation*

**§744.3801. What types of transportation does Licensing regulate?**

We regulate all ~~any~~ transportation provided by or for the operation to children in care, including ~~but not limited to,~~ transportation between the home and the school, ~~between~~ the school and the operation, the operation and home, the operation or the school and field trip locations, or the operation or the school and other drop off locations, ~~authorized by the parent.~~

**§744.3805. What safety precautions must I take when loading and unloading children from the vehicle?**

You must take the following precautions when loading and unloading children from any vehicle, including any type of bus:

(1) You must load and unload children at the curbside of the vehicle or in a protected parking area or driveway;

(2) You must not allow a child to cross a street any time unless the child is accompanied by an adult anytime before a child enters entering or exits after leaving a vehicle, unless the child is accompanied by an adult;

(3) You must account for all children exiting the vehicle before leaving the vehicle unattended; and

(4) You must never leave a child unattended in a vehicle.

#### **§744.3807. 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 a rear-facing convertible child safety seat, forward-facing child safety seat, child booster seat, safety vest, harness, or a safety belt, as appropriate to the child's age, height, and weight according to manufacturer's instructions for all vehicles specified in subsection (d) of this section, unless otherwise noted in this subchapter.

~~(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.)

#### **§744.3809. Must caregivers and/or the driver wear a safety belt?**

Note: There are not changes to this rule, only a clarification 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.~~*

#### **§744.3817. Must I carry specific information and equipment in the vehicles used to transport children in my care?**

(a) You must have the following in each vehicle you use to transport children:

(1) A list of the children being transported;

(2) Emergency medical transport and treatment authorization forms for each child being transported;

(3) The operation's name and telephone number and the ~~,~~ director or permit holder's name. The information must be ~~,~~ and operation telephone number in the glove

compartment or clearly visible inside the passenger compartment, or the operation's name and telephone number must be clearly visible on the outside of the vehicle;

(4) Parent's names and telephone numbers and emergency telephone numbers for each child being transported;

(5) A fire extinguisher approved by the local or state fire marshal, secured in the passenger compartment and accessible to the adult occupants; and

(6) A first-aid kit as specified in Division 4 of Subchapter L §744.2753 of this title (relating to First-Aid Kits~~What items must each first-aid kit contain?~~).

(b) The driver must have a current driver's license and carry it while transporting children.

**§744.3821. What communication's requirements are there for device must I have in a vehicle used to transport for transporting 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 operation must know ~~that knows~~ the routine arrival and departure times of the vehicle and ~~takes~~ action if the vehicle does not return to the operation at a scheduled time. The driver must travel a known fixed route within an approximate timeframe.