

MINIMUM STANDARDS REVISION NOTICE



Date: May 15, 2017 **Effective Date:** April 15, 2017
To: All Holders of Minimum Standards for Child-Care Centers
From: Jean Shaw, DFPS Assistant Commissioner for Child-Care Licensing

- You may print copies from our website at www.dfps.state.tx.us
- If you have questions, please contact your licensing representative or send an email to rcclstan@dfps.state.tx.us.

Subject: Comprehensive Review of Chapter 746

The Texas Human Resources Code (HRC) §42.042(b) requires Child-Care Licensing (CCL) to conduct a comprehensive review of all rules and minimum standards every six years. The proposed changes are a result of the comprehensive review of all minimum standards located in Chapter 746, Minimum Standards for Child-Care Centers (Centers).

During this review of standards, CCL's goal was to obtain as much input as possible and to review the concerns and recommendations of child advocacy groups, child-care centers, children, and parents to formulate standards that balance children's health and safety with affordability and availability of care.

Below is an overview of the minimum standard changes by subchapter. The most significant changes are discussed in some detail. The more minimal changes (e.g. changing a cite to a standard, deleting a masculine pronoun, or clarifying the language of the standard for better readability and understanding) are noted in minimal detail.

All of the following minimum standard changes were effective April 15, 2017.

Subchapter A, Purpose, Scope, and Definitions

Subchapter A was divided into three Divisions: Purpose, Scope, and Definitions, which required the standards to be rearranged and renumbered, including new §746.121 (formerly §746.103).

New §746.111 (formerly §746.107) deletes outdated operation types and makes it clear that these minimum standards apply to both child-care centers and illegal operations (centers that are not licensed but should be).

New §746.113 (formerly §746.109) makes it clear that a permit holder of child-care center and a director, owner, operator, and certain controlling persons of an illegal operation are responsible for the center's compliance with the minimum standards in this chapter.

The New definitions standard §746.123:

- Adds the following definitions: CEUs (which came from deleted §746.1035), child, clock hours (which came from deleted §746.1031), employee, high school equivalent (which came from deleted §746.1115), instructor-led training (which came from deleted §746.1325), permit is no longer valid, premises, restrictive device, sanitize (which came from deleted §746.3409 and §746.3411, with modifications), self-instructional training (which came from deleted §746.1325), and self-study training;
- Deletes the following definitions that are not necessary or are not used in this chapter:

child-care location, child passenger safety-seat system (already defined at §746.5607), creative activities, critical illness, pre-service training, and propped bottle;

- Updates the following definitions for accuracy and better readability and understanding: administrative and clerical duties, age-appropriate, caregiver, Certified Child-Care Professional Credential, child-care center, Child Development Associate Credential, frequent, health-care professional, inflatable, janitorial duties, local sanitation official (used to be state or local sanitation official), regular, special care needs, and water activities; and
- Moves the following definitions to other standards: baby doorway jumper (moved to §746.2415(a)(2)), baby walker (moved to §746.2415(a)(1)), caregiver-initiated activities (moved to §746.2205(a)(7)(A)), child-initiated activities (moved to §746.2205(a)(7)(B)), and single-use area (moved to §746.4213(a)(3)).

Subchapter B, Administration and Communication

In addition too many changes in this Subchapter to improve readability and understanding:

- The addition of §746.201(11) clarifies that the permit holder must ensure the center's licensed capacity is not exceeded at the center or on field trips;
- The addition of §746.301(10) clarifies that a center must notify Licensing of a change in ownership (this requirement was previously in §746.303);
- The changes to §746.501 add new required operational policies for the suspension and expulsion of children, policies for the safe sleep for infants 12 months or younger, and procedures for providing and applying insect repellent and sunscreen; and
- The addition of §746.505(1) clarifies that employees must be notified of any changes to operational policies.

The changes to §§746.303, 746.405, and 746.503 also clarify the language of the standards for consistency and update and/or delete outdated language.

Subchapter C, Record Keeping

In addition too many changes in this Subchapter to improve readability and understanding:

- The changes to §746.603 add more detail to several paragraphs. Also, the changes to paragraph (10) clarify that in some instances minimum standards allow for a deviation with written documentation from a health-care professional, and this documentation must be maintained in the child's record;
- The changes to §§746.613 and 746.623 and new §746.615 regarding immunizations should be reviewed closely because they have many modifications, including clarifying: (1) that centers must continue to meet immunization requirements and kept records must include exemptions or exceptions; (2) that a homeless child or a child in foster care may be admitted provisionally for up to 30 days; (3) what exemptions and exceptions mean; and (4) the acceptable documentation requirements; and
- The changes to §746.801 deleted several redundant requirements because they were already mandated to be posted in another standard (see §746.401). The changes also add more detail to several paragraphs.

The changes to §§746.631, 746.705, 746.803, and 746.909 also clarify the language of the standards for consistency.

Subchapter D, Personnel

In addition too many changes in this Subchapter to improve readability and understanding:

- "Business management" in §§746.1015 and 746.1017 has been changed to "management" because it is a more commonly used term for required college courses;

- New §746.1031 (deleted §746.1043) was moved here for better flow and readability;
- The changes to §746.1037 clarify what is needed to verify clock hours or CEUs (which came from deleted §746.1041);
- For young employees still in high school, the changes to §746.1109 clarify that: (1) the young employees must not be left alone with sole responsibility of an individual child; (2) a charter school or the Texas Private School Accreditation Commission may approve a child-care related career program; and (3) a home school may approve a child-care related program, but the young employee must complete all 24 hours of pre-service training before being placed in a room with children;
- New §746.1301 reorganizes the previous standard by placing it in an easier to understand chart and deleting outdated requirements;
- “First-aid training” was removed from §746.1315 to clarify that first aid training may be obtained through self-instructional training;
- The changes to §746.1317 clarify that: (1) a person must have a current CDA credential; and (2) the training requirements in subsection (c) apply to both instructor-led training and self-instructional training. Note: While this standard does not state that the training requirements in subsection (c) do not apply to self-study training, the training requirements would not apply to self-study training because they would not be practicable;
- The changes to §746.1323 deletes the requirement to adjust the annual training year for employees who obtained training from another center within the last two months; and
- New §746.1401 regarding substitutes, volunteers, and contractors should be reviewed closely because it has been substantially changed from the previous standard, including clarifying: (1) which minimum standards each substitute, volunteer, or contractor must comply with; (2) that volunteers who only supplement ratios for field trips and water activities do not have to comply with minimum standards for employees or caregivers, but they do have to comply with the minimum standards in Subchapter E regarding ratios; and (3) that all substitutes, volunteers (except those who only supplement ratios for field trips and water activities), and contractors must receive orientation prior to beginning relevant duties.

The changes to §§746.1021, 746.1039, 746.1057, 746.1105, 746.1107, 746.1203, 746.1316, and 746.1319 clarify the language of the standard for consistency, update and/or delete outdated language, and improve the readability and understanding of the standards.

Subchapter F, Developmental Activities and Activity Plan

The definitions for “child-initiated activities” and “caregiver-initiated activities” have been added to §746.2205 because these terms are not used anywhere else in this chapter.

Subchapter H, Basic Care Requirements for Infants

In addition too many changes in this Subchapter to improve readability and understanding:

- Many of the standards simply change “child/ren” to “infant/s”, including §§746.2401, 746.2403, 746.2407, 746.2419, and 746.2431. A change to §746.2403 also clarifies that the room arrangement must make it possible for a caregiver to see and hear all infants. A change to §746.2431 also clarifies that an infant’s daily report that is shared with parents may be electronic;
- A change to §746.2405 clarifies that cribs are required for infants younger than 12 months old;
- The changes to §746.2409 clarify that: (1) these crib safety requirements are for full-

size and non-full-size cribs; (2) mattresses must be specifically designed for the specific crib model number; and (3) cribs must be labeled with the infant's name or there must be an assignment map available;

- New §746.2411 updates the previous standard, makes the safety requirements applicable to “play yards” (which is a mesh or fabric sided crib), and makes the safety requirements for play yards more consistent with the safety requirements for full-size and non-full-size cribs, including: (1) play yards must be cleaned according to manufacturer's instructions; and (2) a firm and flat mattress that is designed specifically for the play yard model number must be used;
- The changes to §746.2413 clarify the requirements for stacking cribs, including that the stacked cribs must only be used for an infant who cannot stand or is able to stand without hitting the infant's head on the top crib or the ceiling above the top crib;
- The changes to §746.2415 clarify that a crib must be bare for an infant younger than 12 months of age except for a tight fitting sheet and a crib mattress cover that meets certain requirements. The definitions for baby walkers and baby doorway jumpers were also added to this standard because those terms are not used anywhere else in this chapter;
- The changes to §746.2417 clarify that activities for an infant must include multiple opportunities to play outside of the crib and any restrictive devices;
- The changes to §746.2421 clarify that feeding instructions for an infant who is not ready for table food may come from a health-care professional, not just a physician;
- The changes to §746.2425 and new §746.2426 clarify that infants must not sleep in restrictive devices, which would include “confining equipment”, unless there is a completed Sleep Exception Form. If an infant falls asleep in a restrictive device, then the infant must be removed from the device and placed in a crib as soon as possible; and
- The changes to §§746.2427 and 746.2428 clarify that an infant must be placed in a face-up sleeping position and must not be swaddled unless there is a completed Sleep Exception Form.

Subchapter I, Basic Care Requirements for Toddlers

In addition too many changes in this Subchapter to improve readability and understanding:

- Changes to some standards simply change “child/ren” to “toddler/s”, including §§746.2501 and 746.2509;
- Changes to §746.2505 clarify that toddlers should never be allowed to sleep or walk around with a bottle or training cup; and
- Meal and snack time and naptime activities were deleted from §746.2507 because these requirements are included in other standards in this chapter (see §§746.3301 and 746.2901, respectively).

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

Meal and snack time and naptime activities were deleted from §746.2607 because these requirements are already included in other standards in this chapter (see §§746.3301 and 746.2901, respectively).

Subchapter K, Basic Care Requirements for School-Age Children

Meal and snack time and naptime activities were deleted from §746.2707 because these requirements are already included in other standards in this chapter (see §§746.3301 and 746.2901, respectively).

Subchapter L, Discipline and Guidance

A deleted standard (§746.2801) was combined with §746.2803 to clarify the appropriate methods of discipline

The changes to §746.2805 clarify that prohibited types of discipline include: (1) placing a child in a locked or dark room, bathroom, or closet, whether the door is open or closed; and (2) requiring a child to remain in a restrictive device.

Subchapter M, Naptime

The change to §746.2905 clarifies that a child cannot be confined in a restrictive device in an attempt to make the child rest or sleep.

The change to §746.2911 clarifies that 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 O, Get-Well Care Program

The changes to §746.3117: (1) add more detail to the standard; (2) make the additional training curriculum for caregivers in a get-well care program consistent with other standards in this Subchapter; and (3) correct the total hours of training required for caregivers in a get-well care program, because this standard was not updated when the annual training hours for all caregivers was increased in September 2011.

The change to §746.3119 corrects the total hours of training required for directors in a get-well care program, because this standard was not updated when the annual training hours for all directors was increased in September 2011.

The changes to §746.3123 add more detail and improve the standard for better readability and understanding.

Subchapter P, Nighttime Care

The change to §746.3201 deletes the redundant requirement to notify Licensing before offering nighttime care (because it is already required at §746.301).

The changes to §746.3203 improve the readability and understanding of this standard, and some of the previous information was moved to the Helpful Information box.

Subchapter Q, Nutrition and Food Service

The change to §746.3309 clarifies that snacks provided by a parent must not be shared with other children unless: (1) it is for a celebration or party; and (2) the center insures the shared snacks meet the needs of children who require special diets. Note: Meals provided by a parent should not be shared with other children.

The changes to §746.3313 improve the readability and understanding of the standard and delete information regarding the posting and keeping of menus because these issues are already covered in other standards (see §§746.401(6) and 746.803, respectively).

Subchapter R, Health Practices

In addition to some changes in this Subchapter to improve readability and understanding:

- The change to §746.3415 clarifies that employees must wash their hands after removing gloves and corrects a typographical error;
- The changes to §746.3419 new §746.3420 clarify that hand sanitizers may be used as a substitute for washing hands if certain conditions are met. Note: The use of hand sanitizers should be used in moderation and should not be substituted for all hand washing;
- The changes to §746.3503 clarify that when a diaper-changing table or surface is above the floor level, then at all times when the child is on the table or surface: (1) there must be a safety mechanism (such as raised sides) that is used; (2) the caregiver's hand

must remain on the child; or (3) the caregiver must be facing the child and within an arm's length of the child;

- The changes to §746.3601 clarify that an ill child should not be attending a center if the child has a tympanic (ear) temperature above 100 degrees that is accompanied by behavior changes or other signs or symptoms of illness. The option of a rectal temperature was also deleted from this standard; and
- New §746.3606 clarifies that an ill child may return to the center when: (1) the child is free of symptoms of illness for 24 hours; or (2) there is a health-care professional's statement that the child no longer has an excludable disease or condition.

The changes to §§746.3401, 746.3405, 746.3421, 746.3501, and 746.3607 correct terms and improve the readability and understanding of the standards.

Subchapter S, Safety Practices

In addition to some changes in this Subchapter to improve readability and understanding:

- The changes to §746.3701 clarify that all televisions must be anchored, so they cannot tip over;
- The changes to §746.3703 clarify that e-cigarettes and vaporizers are prohibited in centers;
- The changes to §746.3707 clarify that peace officers and commissioned security officers who are trained to carry firearms may have firearms and ammunition at the center. For all other persons, firearms and other weapons are prohibited at the center; however, this prohibition does not apply to personal vehicles;
- The changes to §746.3709 clarify that the prohibition of toys or other types of equipment that explode or shoot things at the center also applies to field trips;
- The change to §746.3801 clarifies that insect repellent is not a non-prescription medication, which means insect repellent does not meet the definition of a medication; and
- The changes to §746.3901 clarify that the requirements that must be met to have animals at the center also applies to animals on field trips.

Subchapter T, Physical Facilities

The changes to §746.4207 delete outdated grandfather clauses and improve the readability and understanding of the standard.

The changes to §746.4213 clarify that measurements will be rounded "up" to the nearest inch and add the definition of a single-use area, which was deleted from the definition's standard.

The changes to §746.4501 clarify that if the manufacturer requires safety straps on a chair, then the safety straps must be fastened whenever a child is using the chair.

The changes to §746.4503 clarify that a parent may provide a mat for a child. Other changes include, deleting the crib and sleeping requirements because they are already mandated in other standards (see §§746.2405 and 746.2901, respectively) and improving the readability and understanding of the standard.

The change to §746.4507 deletes outdated language.

Subchapter U, Indoor and Outdoor Active Play Space and Equipment

In addition to some changes in this Subchapter to improve readability and understanding:

- The change to §746.4601 clarifies that the design, scale, and location of the active play equipment must be according to the manufacturer's instructions;
- The changes to §746.4609 delete outdated grandfather clauses and clarify that the

grandfather date that remains is September 1, 2010 instead of December 1, 2010;

- The changes to §746.4907 delete an outdated grandfather clause; and
- The changes to §746.4971 clarify that enclosed inflatables must be used according to manufacturer's instructions and that the appropriate grandfather date is September 1, 2010 instead of December 1, 2010.

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

The changes to §746.5015 clarify that: (1) sprinkler equipment must not be used on concrete surfaces; (2) a child should not be left alone with sprinkler equipment; and (3) any splash pad or sprinkler play area must be maintained according to the manufacturer's instructions.

Subchapter W, Fire Safety and Emergency Practices

The changes to §§746.5105 and 746.5305 improve the language of the standards for better readability and understanding and make it clear that any manufacturer's instructions regarding the mounting of a fire extinguisher must be followed.

Subchapter X, Transportation

The changes to §§746.5607 and 746.5621 clarify the language of the standards for consistency, improve the language of the standards for better readability and understanding, and delete outdated language.

Please note that each of the amended minimum standards have the date *April 2017* below each minimum standard title.

A new complete publication of [Chapter 746](#), Minimum Standards for Child-Care Centers, current through April 15, 2017 is available for review on the DFPS website at.

Also on the DFPS website is a final version of the Chapter 746 minimum standard changes [Comprehensive Review Display](#) in bolded/strike through (**new/delete**) format. This document also includes each deleted rule number and its title and any noted additions or changes to the Helpful Information boxes that follow the on-line Minimum Standards for Child Care Centers.