



Minimum Standards Revision Notice

Date: March 1, 2023

Effective Date: March 1, 2023

To: All Holders of Chapter 744, Minimum Standards for School-Age and Before or After-School Programs

From: Rachel Ashworth-Mazerolle, HHSC Associate Commissioner for Child Care Regulation

Subject: Comprehensive Review of Chapter 744

The amendments, new sections, and repeals are necessary to implement Texas Human Resources Code (HRC) §42.042(b), which requires HHSC Child Care Regulation (CCR) to conduct a comprehensive review of minimum standards at least once every six years.

The changes are the result of recommendations based on input from CCR staff and stakeholders, including child-care providers, caregivers, advocates, parents, and the public, compiled during the comprehensive review of all minimum standards located in Chapter 744.

The changes are effective March 1, 2023.

Comprehensive Review of Chapter 744

This memo covers substantive changes made to the rules as a result of CCR's comprehensive rule review.

In addition to the substantive changes outlined in this memo, CCR made non-substantive changes to other rules to improve the understanding and readability of the rules. In addition, CCR added or updated Technical Assistance (TA) boxes that follow the rules in the minimum standards publication to provide additional clarification and/or additional resources. These non-substantive changes and updates to TA boxes are not identified in this document but are identified in the highlighted version of the rules.

Specific Rule Changes

Definitions

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

§744.123. What do certain words and terms mean when used in this chapter?

Amended §744.121 updates the title of the department and agency to reflect that HHSC CCR regulates child-care operations.

Amended §744.123:

- Adds the terms and definitions for "activity plan," "contract service provider," "hazardous materials," and "weather permitting";
- Updates and clarifies the definitions for the terms "age-appropriate," "caregiver," "certified lifeguard," "corporal punishment," "sanitize," and "special care needs"; and
- Changes the term "state or local fire marshal" to "state or local fire authority" and clarifies its definition.

Administration and Communication

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

§744.305. What other situations require notification to Licensing?

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

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

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

§744.501. What written operational policies must I have?

Amended §744.201:

- At (5), clarifies that an employee or volunteer:
 - Must report suspected abuse, neglect, or exploitation directly to the Texas Abuse and Neglect Hotline; and
 - May not:
 - Delegate the responsibility to make a report;
 - Be required to seek approval to file a report; or
 - Be required to notify the operation that a report was made.
- At (6), clarifies that ensuring the confidentiality of background check information includes not disclosing background check information to unauthorized persons.

Amended §744.305(6) adds language to clarify that a child-care operation must report to CCR the occurrence of a non-routine situation that places, or may place, a child at risk for injury or harm.

Amended §744.307(4) adds language to clarify that a child-care operation must report to a child’s parents when the child has been involved in a non-routine situation that placed, or may have placed, the child at risk for injury or harm.

Amended §744.401(5) updates the reference to §744.2005 to reflect that the rule has been renamed.

Amended §744.405:

- At (a)(2), adds the telephone number for poison control; and
- At (b), replaces the requirement that dialing 911 directs emergency personnel to the operation address with a requirement that all employees and caregivers must know the address of the operation to direct emergency personnel to the operation when dialing 911 from the operation.

Amended §744.501(26) adds a requirement that child-care operation must include in its operational policies procedures for supporting inclusive services to children with special care needs that include the requirements in §744.2009.

Record Keeping

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

§744.701. What written records must I keep of accidents and incidents that occur at my operation?

§744.901. What information must I maintain in my personnel records?

Amended §744.605 updates the information a child-care operation must obtain for each child’s admission as follows:

- At (10), adds a requirement that the child-care operation must include whether a child is able to swim without assistance, if the child-care operation provides water activities;
- At (13), updates the information that the child-care operation must include in the statement of a child’s special care needs, including:
 - Medications prescribed for continuous, long-term use;
 - Limitations or restrictions on the child’s activities; and
 - Special care the child requires, including:
 - Any reasonable accommodations or modifications;
 - Any adaptive equipment provided for the child, and instructions for its use; and
 - Symptoms or indications of potential complications related to a physical, cognitive, or mental condition that may warrant prevention or intervention while the child is in care.
- At (13), removes from the previous special care needs statement requirements, the inclusion of:
 - Allergies;
 - Existing illness;
 - Previous serious illness and injuries; and
 - Hospitalizations during the past twelve months.
- At (16), requires the child-care operation to include a child’s allergies (previously included in the special care needs statement) with a completed food allergy emergency plan, if applicable.

Amended §744.701(5) adds language to clarify that a child-care operation must keep a written record of any non-routine situation that placed, or may have placed, a child at risk for injury or harm on the Licensing *Incident/Illness Report* Form 7239 or on another form with the same information.

Amended §744.901(5) clarifies that documentation required by §744.1331 must be maintained in the operation’s personnel records.

Personnel – Director Qualifications

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

Amended §744.1015(4) clarifies the educational requirements related to a Child Development Associate credential or Certified Child-Care Professional credential to qualify as an operation director or a program director of a child-care operation.

Personnel – Caregiver Responsibilities/Supervision

§744.1203. What additional responsibilities do my caregivers have?

§744.1205. What responsibilities does a caregiver have when supervising a child or children?

Amended §744.1203:

- At (4), adds a requirement that caregivers must provide care that is consistent with a child’s habits, interests, strengths, and any special needs, including any special supervision needs or care;
- At (6), replaces a previous requirement that caregivers must ensure children are not out of control with a requirement that caregivers must set appropriate behavior expectations based on the child’s current stage of development; and
- Removes the following caregiver responsibilities because they are now included in new §744.1205:
 - Caregivers must know which children they are responsible for;
 - Caregivers must know each child’s name; and
 - Caregivers must have information showing each child’s age.

New §744.1205 replaces the former §744.1205 regarding supervision. New §744.1205 more specifically outlines the responsibilities a caregiver has when supervising children.

- The rule outlines the following caregiver responsibilities at (a):
 - Knowing which children the caregiver is responsible for;
 - Knowing how many children the caregiver is responsible for;
 - Knowing each child’s name and having information showing each child’s age;
 - Providing the level of supervision necessary to ensure each child’s safety and well-being, including physical proximity and auditory or visual awareness of each child’s on-going activity as appropriate; and
 - Being able to intervene when necessary to ensure each child’s safety.
- The rule requires the caregiver to consider the following factors at (b) when deciding how closely to supervise a child:
 - The child’s chronological age;
 - The child’s current stage of development;
 - The child’s individual differences and abilities;
 - The indoor and outdoor layout of the operation;
 - The circumstances, hazards, and risks surrounding the child; and

- The child’s physical, mental, emotional, and social needs.

Personnel – Professional Development

- §744.1301. What are the training requirements for employees, caregivers, and directors?
- §744.1309. What areas of training must the annual training for caregivers and site directors cover?
- §744.1311. What areas of training must the annual training for an operation director or a program director cover?
- §744.1321. Does Licensing approve training resources or trainers for training hours?

Amended §744.1301:

- Updates the rule title; and
- Adds new subsection (b) to clarify that at least one caregiver or employee with a current certification in pediatric CPR must be on the premises with a caregiver or employee without current pediatric CPR certification.

Amended §744.1309(f) clarifies that at least three of the 15 required annual training hours for caregivers and site directors must come from instructor-led training.

Amended §744.1311(i) clarifies that at least four of the 20 required annual training hours for an operation director or a program director must come from instructor-led training.

Amended §744.1321 adds new subsection (b) to require that any block certification training must allocate clock hours to each specific training topic.

Personnel – Substitutes, Volunteers, or Contractors

- §744.1401. What minimum standards must substitutes, volunteers, or contractors comply with?
- §744.1403. What are the training requirements for substitutes, volunteers, and contractors?
- §744.1405. When is a substitute, volunteer, or contractor exempt from the pre-service training?

Amended §744.1401:

- Updates the rule title;
- Updates the rule to include the term “contractors” and removes any clarifications regarding the role as the information is now included in §744.123(15);
- Adds a requirement that substitutes, volunteers, and contractors comply with training requirements included in new §744.1403; and
- Removes the requirement that all substitutes, volunteers, and contractors must complete orientation because it is now included in new §744.1403.

New §744.1403 outlines the training requirements for substitutes, volunteers, and contractors. The rule:

- Does not contain any new training requirements, but incorporates previous requirements from §744.1401 that required substitutes, volunteers, and contractors to:
 - Comply with minimum standards that apply to employees or caregivers, depending on their role at the operation. §744.1403 focuses solely on minimum standards related to training; and
 - Complete orientation.
- Clarifies that least one caregiver or employee with a current certification in pediatric CPR be on the premises with a substitute, volunteer, or contractor without current pediatric CPR certification if the substitute, volunteer, or contractor is counted in the child to caregiver ratio.

New §744.1405 outlines the circumstances that exempt a substitute, volunteer, or contractor from pre-service training requirements. These circumstances include if the individual:

- Has at least six months of documented prior experience in a regulated operation; or
- Can provide documentation of at least eight clock hours of training in areas specified in §744.1305 at another regulated operation.

Developmental Activities and Activity Plan

§744.2001. What planned activities must caregivers provide for children in their care?

§744.2009. What are my responsibilities when planning activities for a child in care with special care needs?

Amended §744.2001 removes requirements related to children with special care needs because they are now included in new §744.2009.

New §744.2009 outlines the child-care operation's responsibilities when planning activities for a child in care with special care needs. These responsibilities include:

- Providing a child with special care needs the accommodations recommended by a health-care professional or a qualified professional affiliated with the local school district;
- Utilizing as recommended any adaptive equipment provided to the child-care operation for a child's use;
- Ensuring a child who receives specialized services for the child's disability can receive those services from a qualified service provider at the operation, with parental request and approval;
- Ensuring that activities integrate children with and without special care needs; and
- Ensuring that caregivers adapt equipment and procedures and vary methods as necessary to care for a child with special needs in a natural environment.

Discipline and Guidance

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

Amended §744.2105:

- At (3), adds to the list of prohibited discipline and guidance methods grabbing or pulling on a child; and
- Removes from the list of prohibited discipline and guidance methods the following methods because they have been incorporated into the definition of corporal punishment:
 - Pinching, shaking, or biting a child; and
 - Hitting a child with a hand or instrument.

Nutrition and Food Service

§744.2401. What are the basic requirements for meal and snack times?

Amended §744.2401:

- At (e), adds language to clarify that the child-care operation must serve enough food to allow a child to have a second serving from the vegetable, fruit, grain, and milk groups if the child requests it;
- At (f), adds a requirement that the supply of drinking water must be clean, sanitary, and available during active play; and
- At (g), clarifies that the child-care operation may not serve beverages with added sugars unless otherwise allowed by the Child and Adult Care Food Program.

Health Practices

§744.2571. What type of illness would prohibit a child from attending the operation?

Amended §744.2571(3)(D) adds an allowance for a child-care operation to use an infrared temporal (forehead) thermometer to assess a child's temperature and provides guidelines for a temperature reading indicative of illness.

Safety Practices

§744.2753. What items must each first-aid kit contain?

Amended §744.2753:

- Removes the requirement for cotton balls in a first-aid kit; and
- At (4), updates the requirement for adhesive bandages in a first-aid kit so that they do not have to be multi-sized.

Physical Facilities

§744.2911. May I care for children above or below ground level?

Amended §744.2911 (2) adds a requirement that a child-care operation must follow any restrictions issued by the state or local fire authority when seeking approval to care for children above or below ground level.

Transportation

§744.3807. What child passenger safety seat system must I use when I transport children?

Amended §744.3807:

- At (b), adds a requirement that a child-care operation must only use child safety seats and child booster seats that have not expired or been damaged or involved in an accident; and
- At (e), updates the safety restraint device requirements to be consistent with current recommendations from the Texas Department of Transportation and the American Academy of Pediatrics.

Highlighted Versions

You may view highlighted versions of the adopted rules and the updated minimum standards publication at [Minimum Standards | Texas Health and Human Services](#).

If you have questions, please contact your CCR inspector or send an email to [HHSC Minimum Standards Comments](#).