

TITLE 26 HEALTH AND HUMAN SERVICES  
PART 1 HEALTH AND HUMAN SERVICES COMMISSION  
CHAPTER 744 MINIMUM STANDARDS FOR SCHOOL-AGE AND BEFORE OR  
AFTER-SCHOOL PROGRAMS  
SUBCHAPTER A PURPOSE, SCOPE, AND DEFINITIONS  
DIVISION 3 DEFINITIONS

§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 to 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, **as outlined in Subchapter D, Division 5 of this chapter** (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 **that** 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 **10** 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 or individuals**, as specified in §744.1319(a) of this **chapter** (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 or individuals**, as specified in §744.1319(a) and (b) **of this chapter**, 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) Frequent--More than two times in a 30-day period. Note: For the definition of "regularly or frequently present at an operation" as it applies to background checks, see §745.601 of this title (relating to What words must I know to understand this subchapter?).

(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 physicians, nurses, or other medical personnel who are not licensed in the United States or in the country in which the person practices.

(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 typical for all children of the same age without regard to ability or disability. For example, a natural environment for learning social skills is a play group of peers.

(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 Chapter 745, Subchapter L of this title (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 Texas Human Resources Code §§42.048(e), 42.052(j), or 42.054(f).

(42) Physical activity (moderate)--Levels of activity for a child that are at intensities faster than a slow walk, but still allow the child to talk easily. Moderate physical activity increases heart rate and breathing rate.

(43) Physical activity (vigorous)--Rhythmic, repetitive physical movement for a child that uses large muscle groups, causing the child to breathe rapidly and only enabling the child to speak in short phrases. Typically, the child's heart rate is substantially increased and the child is likely to be sweating while engaging in the vigorous physical activity.

(44) Pre-kindergarten age child--A child who is three or four years of age before the beginning of the current school year.

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

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

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

(48) Regular--On a recurring, scheduled basis. Note: For the definition of "regularly or frequently present at an operation" as it applies to background checks, see §745.601 of this title.

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

**(50)** 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.

**(51)** School-age child--A child who is five years of age and older and is enrolled in or has completed kindergarten.

**(52)** 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.

**(53)** Screen time activity--An activity during which a child views media content on a cell or mobile phone, tablet, computer, television, video, film, or DVD. Screen time activities do not include video chatting with a child's family or assistive and adaptive computer technology used by a child with special care needs on a consistent basis.

**(54)** 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.

**(55)** 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.

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

(57) 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 or small muscles, learning, talking, communicating, self-help, social skills, emotional well-being, seeing, hearing, and breathing.

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

(59) 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.

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

### **Helpful Information**

- *Regarding paragraph (44), the beginning of the school year is based on the start date of the particular school district the child attends.*
- *Regarding paragraph (53), media content includes digital and live videos, animations, photos, games, internet searches, etc. Media content does not include electronic sign-in sheets, daily rosters, or schedules displayed on a smart board.*



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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 dispensed;
- (5) Procedures for handling medical emergencies;
- (6) Procedures for parental notifications;
- (7) Discipline and guidance 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 **chapter** (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) Meals and food service practices;
- (10) Immunization requirements for children, including tuberculosis screening and testing if required by your regional Texas Department of State Health Services or local health authority;
- (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) **Procedures** for parents to review and discuss with the director any questions or concerns about the policies and procedures of the operation;
- (18) **Procedures** for parents to visit the operation at any time during your hours of operation to observe their child, program activities, the building, the premises, and equipment without having to secure prior approval;
- (19) **Procedures** for parents to participate in the operation's activities;
- (20) **Procedures** for parents to review a copy of the operation's most recent Licensing inspection report and how the parent may access the minimum standards online;
- (21) Instructions on how a parent may contact the local Licensing office, access the Texas Abuse and Neglect Hotline, and access the **HHSC** website;
- (22) Emergency preparedness plan;
- (23) Procedures for conducting health checks, if applicable; and
- (24) **Information on 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 **chapter** (relating to What must a policy for protecting children from vaccine-preventable diseases include?).

### **Helpful Information**

*Regarding paragraph (8), **it is helpful to** have a policy clarifying the steps that parents can take to prevent suspension or expulsion of their child. **However, a director** may always retain the right to dis-enroll a child when that is in the best interest of the child or other children at the operation. Additional information regarding a policy for suspension and expulsion **is available** in the Licensing Technical Assistance Library.*

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SUBCHAPTER F DEVELOPMENTAL ACTIVITIES AND EQUIPMENT  
DIVISION 1 ACTIVITIES AND ACTIVITY PLANS

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

(a) 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)** 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.

## Helpful Information

- *A school-age child develops a strong secure sense of identity through positive experiences with adults and peers. Although school-age children are learning to accept personal responsibility and act independently, they continue to need the supervision and support of adults.*
- *Research has shown that school-age children benefit from an after-school care program that provides an enriching contrast to the formal school environment. Activities including team sports, cooking, art, dramatics, music, crafts and games allow them to explore new interests and relationships.*
- *Outdoor play provides for greater freedom and flexibility, fuller expression through loud talk and a greater range of active movement. Outdoor play also extends opportunities for large muscle development, social-emotional development and small muscle development by offering variety, challenge and complexity in ways that are not attainable in a confined indoor space.*
- *A child-care operation is considered a place of public accommodation under the Americans with Disabilities Act (ADA), Title III, because it holds itself out to the public as a business. There is additional information regarding ADA and resources online at [http://www.dfps.state.tx.us/Child\\_Care/Information\\_for\\_Providers/faq\\_ada.asp](http://www.dfps.state.tx.us/Child_Care/Information_for_Providers/faq_ada.asp)*

§744.2002. What additional activities must caregivers provide when a child is in care for more than five consecutive hours in a day?

You must include the following activities for programs where you anticipate a child will be in care five or more consecutive hours in a day.

(1) Outdoor play in which the child makes use of both small and large muscles, as 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) Child-initiated activities where:

(A) The equipment, materials, and supplies are within reach of the child; and

(B) The child chooses the activity on the child's own initiative;

(5) Caregiver-initiated activities that the caregiver directs or chooses, at least two of which must promote movement;

(6) Regular meal and snack times as specified in Subchapter J of this Chapter (relating to Nutrition and Food Service);

(7) Supervised naptimes or rest times;

(8) Sufficient time for activities and routines so that the child can progress at the child's own developmental rate; and

(9) No long waiting periods between activities or prolonged periods during which a child stands or sits.

§744.2003. What are the additional requirements if my operation cares for a child under the age of five?

If your operation cares for a child under the age of five, you must:

(1) Have written procedures that include the following:

(A) How caregivers will supervise the child while transitioning the child to and from restrooms, indoor and outdoor activity spaces, and spaces shared by other persons outside of the operation;

(B) How caregivers will meet the unique care needs of the child;

(C) How caregivers will meet the outdoor play and physical activity needs in §744.2002(1) and (3) of this division (relating to What additional activities must caregivers provide when a child is in care for more than five consecutive hours in a day?), including:

(i) A minimum of two opportunities for outdoor play, weather permitting, for at least 60 total minutes when a child is in care for eight hours, although you may prorate this requirement if a child is in care for less than eight hours; and

(ii) A minimum of 90 minutes of moderate to vigorous active play when a child is in care for eight hours, although you may prorate this requirement if a child is in care for less than eight hours;

(D) Under what circumstances the child will be mixing with older children in the operation; and

(E) Any modifications to space or equipment that will be made to accommodate the child.

(2) Have written policies that address the promotion of indoor and outdoor physical activity that are consistent with this division. Your policies must include:

(A) The benefits of physical activity and outdoor play;

(B) The duration of physical activity at your operation, both indoor and outdoor;

(C) The type of physical activity (structured and unstructured) that children may engage in at your operation;

(D) Each setting in which your physical activity program will take place;

(E) The recommended clothing and footwear that will allow a child to participate freely and safely in physical activities; and

(F) A plan to ensure physical activity occurs on days when extreme weather conditions prohibit or limit outdoor play.

(3) Follow the policies and procedures and make the policies and procedures available for review by:

(A) Licensing upon request during your hours of operation; and

(B) Parents at enrollment and as needed thereafter.

## Helpful Information

- *Pre-kindergarten age children have different care needs from school-age children. Younger children may require additional assistance from caregivers in areas such 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.*
- *Regarding paragraph (1)(C)(i) and outdoor play:*
  - *You may divide the total minutes of outdoor play into shorter time frames that total at least 60 minutes;*
  - *You may accommodate weather and air quality by adjusting the scheduled outdoor play, the length of time outdoors, and child's clothing;*
  - *When you shorten or cancel outdoor play to accommodate weather or air quality, you should increase the time of indoor physical activity, so the total amount of physical activity remains the same.*
- *Regarding paragraph (1)(C)(ii) and active play: opportunities for active play may overlap with outdoor play and do not need to be counted separately (e.g. 30 minutes of active outdoor play that includes moderate to vigorous physical activity may be counted toward the required 90 minutes of active play).*
- *When prorating outdoor play and active play based on the total hours a child is in care, allow 20 minutes of outdoor/active play for every three hours that the child is in the program.*
- *Regarding paragraph (2)(A), additional resources regarding physical activity are available in [Caring for Our Children: National Health and Safety Performance Standards, 4th Edition](#) and in the [Licensing Technical Assistance Library](#).*

§744.2005. What written activity plans must caregivers follow?

(a) For programs with a child whom you anticipate to be in care for five or more consecutive hours in a day, you must have a written activity plan that complies with §744.2002 of this division (relating to What additional activities must caregivers provide when a child is in care for more than five consecutive hours in a day?) and §744.2003(1)(C) of this division (relating to What are the additional requirements if my operation cares for a child under the age of five?).

(b) A written activity plan must:

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

(2) Outline the daily routines and specific activities for each group and the approximate times those activities will occur;

(3) Be followed by the caregiver or caregivers responsible for the relevant group of children; and

(4) Be inclusive for all children in the group regardless of special care needs.

(c) A written activity plan may include one or more screen time activities specified in §744.2007 of this division (relating to May I use a screen time activity with a child?), if you also include alternative activities for children who do not want to participate.

### **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.*

§744.2007. May I use a screen time activity with a child?

(a) You may use a screen time activity to supplement, but not to replace, an activity for children described in §744.2001 of this division (relating to What planned activities must caregivers provide for children in their care?) and §744.2002 of this division (relating to What additional activities must caregivers provide when a child is in care for more than five consecutive hours in a day?).

(b) If you use a screen time activity for a child at the operation, you must ensure that the activity:

(1) Is related to the planned activities that meet educational goals;

(2) Is age-appropriate;

(3) Does not exceed one hour per day;

(4) Is not used during mealtime, snack times, naptimes, or rest times;

(5) Does not include advertising or violence; and

(6) Is turned off when not in use.

(c) A school-age child may use screen time without restriction for homework.



## **Helpful Information**

- *The requirements for screen time activities are consistent with the [Caring for Our Children: National Health and Safety Performance Standards, 4th Edition](#).*
- *Excessive media use has been associated with lags in achievement of knowledge and skills, as well as negative impacts on sleep, weight, and social and emotional health.*
- *Children should view screen time activities with an adult who can help the children apply what they are learning to the world around them.*
- *Research indicates that screen time is most appropriate and offers the most benefit when children are actively engaged with the content they are viewing. Labeling objects, identifying people on screen, and asking questions are all active viewing strategies that maximize children's learning during screen time.*
- *Caregivers serve as role models and should not be using digital media that is not directly involved in the care of children. Also see §744.1203(6)(D), which does not allow caregivers to use personal electronic devices, such as cell phones, tablets, and video games that are not directly involved in the teaching, care, or supervision of children in care.*
- *Regarding paragraph (b)(3), the one hour time limit on screen time does not apply to field trips away from the operation.*

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SUBCHAPTER G DISCIPLINE AND GUIDANCE

§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) Corporal punishment or threats of corporal punishment;
- (2) Punishment associated with food, naps, or toilet training;
- (3) Pinching, shaking, or biting a child;
- (4) Hitting a child with a hand or instrument;
- (5) Putting anything in or on a child's mouth;
- (6) Humiliating, ridiculing, rejecting, or yelling at a child;
- (7) Subjecting a child to harsh, abusive, or profane language;
- (8) Placing a child in a locked or dark room, bathroom, or closet;
- (9) Withholding active play or keeping a child inside as a consequence for behavior, unless the child is exhibiting behavior during active play that requires a brief supervised separation or time out that is consistent with §744.2103(b)(4) of this subchapter (relating to What methods of discipline and guidance may a caregiver use?); and
- (10) 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 examples of corporal punishment.*
- *Regarding paragraph (9), you must never withhold active play from a child who misbehaves (i.e., keeping a child indoors with another caregiver while the rest of the children go outside or making a child sit out of active play in the afternoon for a behavior that occurred in the morning). However, if a child is exhibiting poor behavior during active play, you may separate the child from the group, as described in §744.2103(b)(4), to allow the child to settle down before resuming cooperative play or activities.*

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SUBCHAPTER J NUTRITION AND FOOD SERVICE

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

(a) You must serve all children regular meals and morning and afternoon snacks as specified in this subchapter.

(b) The meals and snacks must follow the meal patterns established by the U.S. Department of Agriculture (USDA) Child and Adult Care Food Program (CACFP) that is administered by the Texas Department of Agriculture. You must follow these patterns regardless of whether you are participating in the program for reimbursement.

(c) If you serve breakfast, you do not have to serve a morning snack.

(d) A child must not go more than three hours without a meal or snack being offered, unless the child is sleeping.

(e) You must serve enough food to allow children a second serving from the vegetable, fruit, grain, and milk groups.

(f) You must ensure a supply of drinking water is readily available to each child at every snack, mealtime, and after active play and is served in a safe and sanitary manner.

(g) You must not serve beverages with added sugars, such as carbonated beverages, fruit punch, or sweetened milk.

(h) You must not use food as a reward.

(i) You must not serve a child a food identified on the child's food allergy emergency plan as specified in §744.2667 of this chapter (relating to What is a food allergy emergency plan?).

## Helpful Information

- You can find the CACFP meal and snack patterns at <https://www.fns.usda.gov/cacfp/meals-and-snacks>.
- To help ensure that grains are whole grain-rich, look closely at the ingredient list to make sure a whole grain is listed as the first ingredient, or second after water.
- Research indicates serving drinking water to children ensures they are properly hydrated and facilitates reducing the intake of extra calories from nutrient poor foods and drinks, which are associated with weight gain and obesity.
- Water should not be a substitute for milk at meals or snacks where milk is a required component. It is appropriate to require children to first drink the milk before serving themselves water.
- Beverages with added sugars should be avoided because they can contribute to child obesity, tooth decay, and poor nutrition. However, it is acceptable to serve beverages with added sugars for a special occasion such as a holiday or birthday celebration.
- Your operation may only use pasteurized full-strength juice to meet the vegetable or fruit requirement at one meal or snack per day.
- Caregivers should encourage children to sample a variety of food of different colors and textures.

§744.2403. How often must I feed a child in my care?

You must follow the guidelines in Figure 26 TAC §744.2403 when determining how often to feed a child in your care.

Figure: 26 TAC §744.2403

If a child is in care:	You must offer the child at least this amount of food:
(1) Less than four hours	One snack.
(2) Four to five hours	One meal.
(3) Six to eight hours	One meal and one snack.
(4) More than eight hours	(A) Two meals and one snack; or (B) One meal and two snacks.
(5) During the nighttime	Depending on the time child arrives and leaves:  (A) An evening meal and breakfast;  (B) A bedtime snack and breakfast; or  (C) An evening meal, a bedtime snack, and breakfast.

### Helpful Information

- Well-balanced meals provide the food children need to grow, think, fight infection, and fuel their bodies.
- The American Academy of Pediatrics (AAP) affirms that, since young children eat in small feedings and a child's appetite and interest in food may vary from one meal or snack to the next, children need to be fed often. As a result, snacks often become a significant part of a child's daily food intake.

§744.2409. May parents provide meals and snacks for their child instead of my operation providing them?

(a) Yes. However, your enrollment agreement, or an addendum to the agreement, signed by the parent must include a statement that the parent:

- (1) Is choosing to provide the child's meals and snacks from home; and
- (2) Understands the operation is not responsible for its nutritional value or for meeting the child's daily food needs.

(b) If the parent provides a meal but not a snack, you are responsible for providing a snack as specified **in this subchapter**.

(c) You must provide safe and proper storage and service of the individual meals and snacks provided by parents.

(d) Snacks provided by a parent must not be 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.

### **Helpful Information**

- *When a parent provides the child's meals and snacks from home, it is important to share information with the parents on the nutritional value of foods, sample menus, information on food allergies, and choking hazards, such as:*
  - *Sample menu items, introducing new foods, MyPlate materials, understanding nutrition labels, and more can be found at [www.fns.usda.gov/tn/myplate](http://www.fns.usda.gov/tn/myplate); and*
  - *Resources on choking foods, food allergies, nutrition for young children, and other information can be found or downloaded from the Licensing Technical Assistance Library.*
- *A child with food allergies is at risk when eating foods that have not been prepared or served by the child's own parent or a program employee who has knowledge of the food ingredients and the child's needs.*

§744.2411. What are the requirements for a child who requires a special diet or does not want to eat foods the operation serves?

(a) To serve a child a therapeutic or special diet, you must:

(1) Have written approval from:

(A) A physician or health-care professional with prescriptive authority if the diet relates to a disability that restricts the child's diet; or

(B) A health-care professional or a registered or licensed dietician if the diet does not relate to a disability that restricts the child's diet;

(2) Maintain the written approval in the child's record; and

(3) Give the information to all employees preparing and serving food.

(b) You must discuss recurring eating problems with the child's parent.

(c) You may encourage but must not force children to eat.

(d) You must not serve nutrient concentrates and supplements such as protein powders, liquid protein, vitamins, minerals, and other nonfood substances without written instructions **as required in paragraph (a)(1) of this section.**

***Helpful Information***

*An operation may serve meat alternatives to accommodate vegetarian diets without special authorization from a health-care professional or dietician. The CACFP offers guidance on how to include meat alternatives as part of the meal pattern.*

§744.2421. Must I serve meals family style?

(a) No, you do not have to use family-style meal service, although all meals and snack times must:

(1) Be unhurried;

(2) Allow children to feed themselves according to their developmental level; and

(3) Include adult supervision of children.

(b) If meals and snacks are served family style, caregivers must supervise children to prevent cross-contamination of the food.

***Helpful Information***



- *Mealtime is a great opportunity for children to learn about new food, develop new motor skills, increase their dexterity, and develop language and social skills through conversation. Conversation at the table adds to the pleasant mealtime environment and provides opportunities for informal modeling of appropriate eating behaviors, communication about eating, and imparting nutrition learning experiences.*
- *The presence of adult caregivers during mealtime:*
  - *Helps prevent behaviors that increase risk, such as fighting, children feeding each other, children stuffing food into the mouth, etc.;*
  - *Ensures that children do not increase their risk of choking by eating while talking, crying, laughing, or playing; and*
  - *Offers an opportunity for caregivers to model appropriate dining etiquette.*

TITLE 26                   HEALTH AND HUMAN SERVICES  
 PART 1                     HEALTH AND HUMAN SERVICES COMMISSION  
 CHAPTER 744           MINIMUM STANDARDS FOR SCHOOL-AGE AND BEFORE OR  
                                   AFTER-SCHOOL PROGRAMS  
 SUBCHAPTER J         NUTRITION AND FOOD SERVICE

REPEAL

§744.2403. How often must I feed children in my care?

§744.2405. How do I know what a child's daily food needs are?

§744.2407. What kind of foods must I serve for snacks?

§744.2415. May I serve powdered milk?

§744.2417. May I serve fruit or vegetable juices?