

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 746. Minimum Standards for Child-Care Centers _Subchapter S. Safety Practices _Division 1. Safety Precautions

40 TAC § 746.3701
Tex. Admin. Code tit. 40, § 746.3701

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

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

- (1) Electrical outlets accessible to a child younger than five years must have childproof covers or safety outlets;
- (2) 220-volt electrical connections within a child's reach must be covered with a screen or guard;
- (3) Air conditioners, electric fans, and heaters must be mounted out of all children's reach or have safeguards that keep any child from being injured;
- (4) Glass in sliding doors must be clearly marked with decals or other materials placed at children's eye level;
- (5) Play materials and equipment must be safe and free from sharp or rough edges and toxic paints;
- (6) Poisonous or potentially harmful plants must be inaccessible to all children;
- (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.

40 TAC § 746.3703
Tex. Admin. Code tit. 40, § 746.3703

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

(a) People whose behavior and/or health status poses an immediate threat or danger to the health or safety of the children must not be present when children are in care.

(b) People must not consume alcohol or controlled substances without a prescription in the child-care center, during transportation, or on field trips.

(c) People must not be under the influence of or impaired by alcohol or controlled substances in the child-care center, during transportation, or on field trips.

(d) People must not smoke or use tobacco products at the child-care center, on the premises, on the playground, in transportation vehicles, or during field trips.

40 TAC § 746.3705

Tex. Admin. Code tit. 40, § 746.3705

§ 746.3705. Am I required to have a video or audio monitoring system?

Although permissible, you are not required to have a video or audio monitoring system.

40 TAC § 746.3707

Tex. Admin. Code tit. 40, § 746.3707

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

(a) Law enforcement officials who are trained and certified to carry a firearm on duty may have firearms or ammunition on the premises of the child-care center.

(b) For all other persons, firearms, hunting knives, bows and arrows, and other weapons are prohibited on the premises of the child-care center, unless the child-care center is also your residence.

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

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(d) Ammunition must be kept in a separate locked cabinet and inaccessible to children during all hours of operation.

40 TAC § 746.3709
Tex. Admin. Code tit. 40, § 746.3709

§ 746.3709. May I have other toys or equipment that explodes or shoots things?

No. Toys that explode or that shoot things, such as caps, BB guns, darts, or fireworks, are prohibited as toys for children in both residential and non-residential locations. Toys that explode or shoot things kept on the premises of a child-care center located in your home must remain in a locked cabinet inaccessible to any child during all hours of operation.

40 TAC § 746.3801
Tex. Admin. Code tit. 40, § 746.3801

§ 746.3801. What does “medication” refer to in this division?

In this division, medication means:

(1) A prescription medication; or

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

40 TAC § 746.3803
Tex. Admin. Code tit. 40, § 746.3803

§ 746.3803. What authorization must I obtain before administering a medication to a child in my care?

(a) Authorization to administer medication to a child in your care must be obtained from the child’s parent:

(1) In writing, signed and dated;

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(2) In an electronic format that is capable of being viewed and saved; or

(3) By telephone to administer a single dose of a medication.

(b) Authorization to administer medication expires on the first anniversary of the date the authorization is provided.

(c) The child's parent may not authorize you to administer medication in excess of the medication's label instructions or the directions of the child's health-care professional.

(d) Parent authorization is not required if you administer a medication to a child in a medical emergency to prevent the death or serious bodily injury of the child, provided that you administer the medication as prescribed, directed, or intended.

**40 TAC § 746.3805
Tex. Admin. Code tit. 40, § 746.3805**

§ 746.3805. How must I administer medication to a child in my care?

(a) Medication must be given:

(1) As stated on the label directions; or

(2) As amended in writing by the child's health-care professional.

(b) Medication must:

(1) Be in the original container labeled with the child's full name and the date brought to the operation;

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(2) Be administered only to the child for whom it is intended; and

(3) Not be administered after its expiration date.

(c) When you administer medication to a child in your care, you must record the following:

(1) Full name of the child to whom the medication was given;

(2) Name of the medication;

(3) Date, time, and amount of medication given; and

(4) Full name of the employee administering the medication.

(d) You must keep all medication records for at least three months after administering the medication.

dmin. Code tit. 40, § 746.3807

§ 746.3807. How must I store medication that I administer to a child?

You must store medications as follows:

(1) Keep it out of the reach of children or in locked storage;

(2) Store it in a manner that does not contaminate food; and

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(3) Refrigerate it, if refrigeration is required, and keep it separate from food.

40 TAC § 746.3809

Tex. Admin. Code tit. 40, § 746.3809

§ 746.3809. How long may I keep the medication that I administer to a child?

You must dispose of the medication or return it to the parent when the child withdraws from the child-care center, or when the medication is out-of-date or is no longer required for the child.

40 TAC § 746.3811

Tex. Admin. Code tit. 40, § 746.3811

§ 746.3811. Do I have to notify parents if I do not want to administer medications?

Yes. If you choose not to administer medication to children, you must inform the parents of this policy in writing before the child's enrollment.

40 TAC § 746.3813

Tex. Admin. Code tit. 40, § 746.3813

§ 746.3813. What is specialized medical assistance?

Specialized medical assistance is any medical assistance other than medication. Examples include, but are not limited to, assisting with an apnea monitor, protective helmet, or leg brace.

40 TAC § 746.3815

Tex. Admin. Code tit. 40, § 746.3815

§ 746.3815. What are my requirements regarding specialized medical assistance?

(a) If a child in your care requires specialized medical assistance, then you are required to provide specialized medical assistance as recommended or ordered by a health-care professional.

(b) If you are provided with a written copy of the health-care professional's recommendations or orders, you must maintain this written information in the child's record for at least three months after the health-care professional has indicated that the specialized medical assistance is no longer needed.

40 TAC § 746.3901

Tex. Admin. Code tit. 40, § 746.3901

§ 746.3901. What steps must I take to have animals at my child-care center?

If you choose to have animals on the premises, you must:

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- (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.

**40 TAC § 746.3903
Tex. Admin. Code tit. 40, § 746.3903**

§ 746.3903. Must I keep documentation of vaccinations on file for the animals?

- (a) Yes. You must have documentation at your child-care center showing dogs and cats have been vaccinated as required by Texas Health and Safety Code, Chapter 826.
- (b) You must have a statement of health from a local veterinarian at your child-care center for dogs, cats, ferrets, and other animals other than small rodents, such as guinea pigs, mice, and hamsters.

**40 TAC § 746.3905
Tex. Admin. Code tit. 40, § 746.3905**

§ 746.3905. Must I prevent children from having contact with certain animals while at my child-care center?

- (a) Yes. Children must not have contact with chickens, ducks, and reptiles, such as snakes, turtles, lizards, iguanas, and amphibians, such as frogs and toads.
- (b) You must keep the child-care center and playground free of animals unfamiliar to you.
- (c) You must not allow children to play with animals unfamiliar to you or other animals that could be dangerous, including exotic animals such as monkeys.

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40 TAC § 746.4001

Tex. Admin. Code tit. 40, § 746.4001

§ 746.4001. Must I have a first-aid kit at my child-care center?

Yes. You must have a complete first-aid kit available in each building at the child-care center, during all field trips, and while transporting children. Each first-aid kit must be:

- (1) Clearly labeled;
- (2) Kept in a clean and sanitary condition;
- (3) Easily accessible to all employees;
- (4) Stored in a designated location known to all employees; and
- (5) Kept out of the reach of children.

40 TAC § 746.4003

Tex. Admin. Code tit. 40, § 746.4003

§ 746.4003. What items must each first-aid kit contain?

(a) Each first-aid kit must contain the following supplies:

- (1) A guide to first aid and emergency care;
- (2) Adhesive tape;
- (3) Antiseptic solution or wipes;

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(4) Cotton balls;

(5) Multi-size adhesive bandages;

(6) Scissors;

(7) Sterile gauze pads;

(8) Thermometer, preferably non-glass;

(9) Tweezers; and

(10) Waterproof, disposable gloves.

(b) The first-aid supplies must not have expired.

40 TAC § 746.4101
Tex. Admin. Code tit. 40, § 746.4101

§ 746.4101. Who may I release children to?

You must release children only to a parent or a person designated by the parent.

40 TAC § 746.4103
Tex. Admin. Code tit. 40, § 746.4103

§ 746.4103. How do my employees verify the identity of a parent or a person a parent has designated to pick up the child?

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(a) You must develop child-care center policies for the release of children, including a plan to verify the identity of a person authorized to pick up a child but whom the caregiver does not know. If your child-care center transports children, the plan must include verifying the identity of a person to whom you release a child from a child-care-center transportation vehicle.

(b) Your policies must include a reasonable means to record the identity of the individual, such as a copy of a valid photo identification, an instant photograph of the individual, or recording the driver's license number and car tag numbers. You must retain this information in the child's records for at least three months.

(c) You must instruct all employees in the child-care center's policies for the release of children, including the verification plan.

**40 TAC § 746.4131
Tex. Admin. Code tit. 40, § 746.4131**

§ 746.4131. What are "children's products?"

Children's products are products that are designed or intended to be used by a child under 13 years of age or used by a caregiver during the care of a child under 13 years of age. The term does not include:

(1) An item that is not designed or intended to be used solely or primarily by a child under 13 years of age or for the care of a child under 13 years of age;

(2) A medication, drug, food, or other item that is intended to be ingested; or

(3) Clothing.

**40 TAC § 746.4133
Tex. Admin. Code tit. 40, § 746.4133**

§ 746.4133. When is a children's product considered to be unsafe?

A children's product is considered to be unsafe if after it has been recalled for any reason by the United States

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Consumer Product Safety Commission:

(1) The recall has not been rescinded; and

(2) The product has not been made safe through being remanufactured or retrofitted.

40 TAC § 746.4135
Tex. Admin. Code tit. 40, § 746.4135

§ 746.4135. What are my responsibilities regarding unsafe children's products in my child-care center?

(a) You are responsible for reviewing the United States Consumer Product Safety Commission (CPSC) recall list. You may view all current and past recalls through the CPSC's Internet website at: www.cpsc.gov. You must ensure that there are no unsafe children's products in your child-care center unless one or more of the following apply:

(1) The product is an antique or collectible children's product and is not used by, or accessible to any child; or

(2) The unsafe children's product is being retrofitted to make it safe and the product is not used by, or accessible to any child.

(b) You must certify annually in writing using a form provided by DFPS that you have reviewed each of the recall notices issued by the CPSC and that there are no unsafe products in the center except products specified in subsection (a) of this section. The form must be kept on file and available for review upon request by Licensing staff, parents, and employees during hours of operation.

(c) You must post a notice for parents and employees in a prominent and publicly accessible place that includes information on how to access a listing of unsafe children's products through the CPSC Internet website or through the DFPS Internet website.

40 TAC § 746.4201
Tex. Admin. Code tit. 40, § 746.4201

§ 746.4201. How many square feet of indoor activity space must I have for children?

You must have at least 30 square feet of indoor activity space for each child that you are licensed to serve, unless the

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child-care center is exempt based on criteria specified in this division.

40 TAC § 746.4203
Tex. Admin. Code tit. 40, § 746.4203

§ 746.4203. Am I required to care for children younger than 18 months separately from older children?

Yes. You must care for children younger than 18 months in rooms and outdoor activity space areas separate from older children unless there are 12 or fewer children in the child-care center, or the child-care center is exempt based on criteria specified in this division.

40 TAC § 746.4205
Tex. Admin. Code tit. 40, § 746.4205

§ 746.4205. Must I limit the number of children in each room based on the indoor activity space measurements for that room?

(a) Yes. For children less than 18 months old, the number of infants must not exceed the activity space.

(b) For children 18 months and older, more children than the room measurement will accommodate must not routinely occupy rooms, unless the age of the children, the equipment and furnishings, and the activity being conducted in the room make it possible.

40 TAC § 746.4207
Tex. Admin. Code tit. 40, § 746.4207

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

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

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

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

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

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

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

40 TAC § 746.4213
Tex. Admin. Code tit. 40, § 746.4213

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

(a) We determine indoor activity space by:

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

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

(3) Excluding single-use areas. See § 746.105(43) of this title (relating to What do certain words and terms mean when used in this chapter?) for more information on single-use areas; and

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

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

40 TAC § 746.4215
Tex. Admin. Code tit. 40, § 746.4215

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§ 746.4215. May other programs use my indoor activity space at the same time I have children in care?

(a) You may share the indoor activity space that is not classroom space with other programs at the same time you have children in care, if you have a written plan specifying how caregivers will supervise and account for children in your care. The plan must address the following:

(1) The ages of the children;

(2) The proximity of restroom facilities and the operation entrances and exits to the children's area; and

(3) The nature of other activities and persons who may be sharing the space.

(b) You must follow your written plan and submit a copy to Licensing upon request.

40 TAC § 746.4217
Tex. Admin. Code tit. 40, § 746.4217

§ 746.4217. May I care for children above or below ground level?

You must not care for children on any level above or below ground level without written approval from the state or local fire marshal.

40 TAC § 746.4301
Tex. Admin. Code tit. 40, § 746.4301

§ 746.4301. How many square feet of outdoor activity space must I have?

(a) You must have 80 square feet of outdoor activity space for each child using the outdoor activity area at one time, unless you are licensed to provide only:

(1) An alternate care program; or

(2) A get-well care program.

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(b) You must have enough square footage in the outdoor activity space to equal at least 25% of your licensed indoor capacity.

(c) If you were licensed before September 1, 2003, you do not have to comply with the outdoor activity space requirements specified in subsection (b) of this section unless the permit issued prior to September 1, 2003, is no longer valid.

40 TAC § 746.4305
Tex. Admin. Code tit. 40, § 746.4305

§ 746.4305. Must I fence the outdoor activity space?

Yes. A fence or wall at least four feet high must enclose the outdoor activity space unless you meet one of the following:

(1) You are licensed to provide only an after-school care program in a classroom facility owned, operated, and administered by and located in a public school as defined by the Texas Education Agency;

(2) You are licensed to provide only an alternate care program;

(3) You are licensed to provide only a get-well care program; or

(4) The only children using the outdoor activity space are five years old or older.

40 TAC § 746.4307
Tex. Admin. Code tit. 40, § 746.4307

§ 746.4307. How many exits must I have from my fenced outdoor activity space?

Each fenced yard must have at least two exits. An entrance to the building may count as one exit, but one exit must be away from the building.

40 TAC § 746.4309
Tex. Admin. Code tit. 40, § 746.4309

§ 746.4309. May I keep the gates leading into my outdoor activity space locked while children are in care?

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Yes, however the locking mechanism must be accessible to all employees at all times. Employees must be able to open the gates immediately in an emergency and satisfactorily demonstrate this ability to Licensing staff upon request.

40 TAC § 746.4311
Tex. Admin. Code tit. 40, § 746.4311

§ 746.4311. Must the outdoor activity space be connected to the child-care center?

No; however, all outdoor activity areas used by children must be accessible by a safe route. We must approve a plan to use an outdoor activity space that is not connected to the child-care center, such as a near-by park, schoolyard, rooftop, or other alternative. We will consider the following criteria before approving the plan:

(1) Traffic patterns of vehicles and people in the area;

(2) Ages of children in the groups;

(3) Availability of appropriate equipment;

(4) Usage of the location by other persons when the children would be most likely to use it;

(5) Neighborhood circumstances, hazards, and risks;

(6) Accessibility to children and caregivers on foot or the availability of push-carts or other means of transporting infants and toddlers;

(7) Reasonable accessibility of restroom facilities; and

(8) Ability to obtain assistance if needed when injury or illness occurs.

40 TAC § 746.4313
Tex. Admin. Code tit. 40, § 746.4313

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§ 746.4313. Must I comply with additional requirements if my plan to use an outdoor activity space not connected to my child-care center is approved by Licensing?

Yes. If we approve the outdoor activity space, you must:

(1) Give parents written notification of the location of the outdoor activity area, upon their child's enrollment;

(2) Develop a written plan to supervise children, both during play and while traveling to and from the outdoor activity space; and

(3) Meet other conditions specified by Licensing staff, if applicable.

40 TAC § 746.4315
Tex. Admin. Code tit. 40, § 746.4315

§ 746.4315. May other programs use my outdoor activity space at the same time I have children in care?

(a) You may share the outdoor activity space with other programs at the same time you have children in care, if you have a written plan specifying how caregivers will supervise and account for children in your care. The plan must address the following:

(1) The ages of the children;

(2) The proximity of restroom facilities and the operation entrances and exits to the children's area; and

(3) The nature of other activities and persons who may be sharing the space.

(b) You must follow your written plan and submit a copy to Licensing upon request.

40 TAC § 746.4401
Tex. Admin. Code tit. 40, § 746.4401

§ 746.4401. How many hand-washing sinks must I have in my child-care center for children's use?

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(a) If you are licensed to serve 13 or more children, unless otherwise specified in this division, you must have one sink for every 17 children who are 18 months of age and older.

(b) If you are licensed to serve 12 or fewer children, unless otherwise specified in this division, you must have at least one sink available for the children's use.

(c) If you were licensed as a kindergarten and nursery school, or school: grades kindergarten and above, before September 1, 2003, you must have one sink for every 20 children.

(d) If you were licensed as a drop-in child-care center before September 1, 2003, you must have at least one sink for every 25 children.

(e) A kindergarten and nursery school; school: grades kindergarten and above; and drop-in child-care center must comply with the requirements specified in subsection (a) or (b) of this section if the permit issued prior to September 1, 2003, is no longer valid.

**40 TAC § 746.4403
Tex. Admin. Code tit. 40, § 746.4403**

§ 746.4403. Must I have a hand-washing sink in the diaper-changing area?

(a) You must have one hand-washing sink in each diaper-changing area, placed so that the caregiver using it can maintain supervision of the children in the group as specified in § 746.1205 of this title (relating to What does Licensing mean by "supervise children at all times"?).

(b) If your child-care center was licensed as a day care center, group day care home or drop-in child-care center before September 1, 2003, and you are unable to comply with subsection (a) of this section, you must submit to us and follow a plan for each diaper-changing area that ensures children are supervised at all times and caregivers and children are washing hands as specified in this chapter.

(c) A child-care center licensed before September 1, 2003, must comply with the requirements specified in subsection (a) of this section if the permit issued prior to September 1, 2003, is no longer valid.

**40 TAC § 746.4405
Tex. Admin. Code tit. 40, § 746.4405**

§ 746.4405. Where must I locate the hand-washing sinks for children's use?

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Hand-washing sinks must be inside the child-care center. Children 18 months of age and older 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 R of this chapter (relating to Health Practices) for further information on hand washing.

**40 TAC § 746.4407
Tex. Admin. Code tit. 40, § 746.4407**

§ 746.4407. How many toilets am I required to have in my child-care center?

(a) If you are licensed to serve 13 or more children, you must have one flush toilet for every 17 children who are 18 months of age and older.

(b) If you are licensed to serve 12 or fewer children, you must have at least one flush toilet available for the children's use.

(c) If you were licensed as a kindergarten and nursery school, or school: grades kindergarten and above, before September 1, 2003, you must have one toilet for every 20 children.

(d) If you were licensed as a drop-in child-care center before September 1, 2003, you must have at least one toilet for every 25 children.

(e) A child-care center licensed before September 1, 2003, must comply with the requirements specified in subsection (a) or (b) of this section if the permit issued prior to September 1, 2003, is no longer valid.

**40 TAC § 746.4409
Tex. Admin. Code tit. 40, § 746.4409**

§ 746.4409. Where must the toilets be located?

Toilets must be inside the child-care center. Children 18 months of age and older 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.

**40 TAC § 746.4411
Tex. Admin. Code tit. 40, § 746.4411**

§ 746.4411. May I count urinals in the ratio of children to toilets?

(a) Urinals may be counted in the ratio of children to toilets, but may not exceed 50% of the total number of toilets.

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(b) Restrooms containing urinals must also have flush toilets.

40 TAC § 746.4417
Tex. Admin. Code tit. 40, § 746.4417

§ 746.4417. May potty-chairs be used?

Yes. Potty-chairs may be used, but you may not count them in the ratio of children to toilets.

40 TAC § 746.4419
Tex. Admin. Code tit. 40, § 746.4419

§ 746.4419. Do I have to use toilets, sinks and fountains that are child sized?

No, however if you use a sink, urinal, toilet, or drinking fountain that is too high for children to use safely and independently, you must equip them with anchored steps and/or a broad-based platform with a non-slip surface.

40 TAC § 746.4421
Tex. Admin. Code tit. 40, § 746.4421

§ 746.4421. May the doors to the restroom or toilets have locks on them?

Yes. Doors on restrooms and toilets used by children may have locks, although:

(1) Locks must be out of children's reach; or

(2) If locks are within children's reach there must be a way to immediately open the door from the outside in an emergency, and:

(A) The unlocking mechanism must be accessible to all employees at all times and must be demonstrated satisfactorily to Licensing staff upon request; and

(B) An adult must be present in the restroom area when children younger than five years are using restrooms with door locks within children's reach.

40 TAC § 746.4423
Tex. Admin. Code tit. 40, § 746.4423

§ 746.4423. May other programs use the toilets and hand washing sinks counted in my indoor activity

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space at the same time I have children in care?

(a) Yes. You may share the toilets and hand washing sinks counted in your indoor activity space with other programs at the same time you have children in care, provided you:

(1) Ensure adequate facilities are available to children when needed; and

(2) Have a written plan specifying how caregivers will supervise and account for children in your care, that address:

(A) The ages of the children;

(B) The proximity of restroom facilities, and the center's entrances and exits to the children's area; and

(C) The nature of other activities and persons who may be sharing the toilets and hand washing sinks.

(b) You must follow the plan and submit a copy of Licensing upon request.

**40 TAC § 746.4501
Tex. Admin. Code tit. 40, § 746.4501**

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

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

**40 TAC § 746.4503
Tex. Admin. Code tit. 40, § 746.4503**

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

(a) Yes. You must provide the following:

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(1) An individual crib meeting requirements specified in Subchapter H of this chapter (relating to Basic Care Requirements for Infants) for each non-walking child younger than 18 months to sleep or rest in;

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

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

(b) Cots, beds, or mats must be labeled with the child's name. Labeling cots, beds, or mats with a number related to a number assignment map may be used as an alternative.

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

**40 TAC § 746.4505
Tex. Admin. Code tit. 40, § 746.4505**

§ 746.4505. Must I have storage for each child's individual belongings?

Yes. You must have individual lockers, cubicles, separate hooks and shelves, or other adequate storage space for each child's personal belongings. You must clearly label the storage space with the child's name, a photograph of the child, or other symbol the child recognizes as his own.

**40 TAC § 746.4507
Tex. Admin. Code tit. 40, § 746.4507**

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

(a) Yes. You must have:

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

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

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

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

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

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

40 TAC § 746.4509
Tex. Admin. Code tit. 40, § 746.4509

§ 746.4509. May I have indoor lofts?

(a) Yes, as long as the lofts are designed and used as an extension of the classroom and you comply with the following safety standards:

(1) Caregivers must be able to adequately supervise children at all times;

(2) Stairs and steps, regardless of height, must have handrails the children can reach. Rung ladders do not require handrails; and

(3) Platforms over 20 inches in height must be equipped with protective barriers that prevent children from crawling over or falling through the barrier, or becoming entrapped.

(b) If lofts are used as indoor active play space or equipment, they must comply with minimum standards specified in Subchapter U of this chapter (relating to Indoor and Outdoor Active Play Space and Equipment).

40 TAC § 746.4601
Tex. Admin. Code tit. 40, § 746.4601

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

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

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(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 appropriate for the body size and ability of the children using the equipment;

(3) Equipment must not have openings or angles that can entrap a child's body or body part that has penetrated the opening;

(4) Equipment must not have protrusions or openings that can entangle something around a child's neck or a child's clothing;

(5) Equipment must be securely anchored according to manufacturer's specifications to prevent collapsing, tipping, sliding, moving, or overturning;

(6) All anchoring devices must be placed below the level of the playing surface to prevent tripping or injury resulting from a fall;

(7) Equipment must not have exposed pinch, crush, or shear points, on or underneath it;

(8) Climbing equipment, swings, or inflatables must not be installed over asphalt or concrete unless the asphalt or concrete is covered with properly installed unitary surfacing materials as specified in § 746.4909 of this title (relating to What are unitary surfacing materials?) and § 746.4911 of this title (relating to How should unitary surfacing materials be installed?);

(9) Porches or platforms more than 20 inches in height for pre-kindergarten and younger children, and more than 30 inches in height for school-age children, must be equipped with protective barriers that surround the elevated surface except for entrances and exits and that prevent children from crawling over or through the barrier;

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(10) Stairs and steps on climbing equipment, regardless of height, must have handrails the children can reach. Rung ladders do not require handrails; and

(11) If you are licensed to provide care for children 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 space or equipment 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 space or equipment that does not meet Licensing standards.

40 TAC § 746.4603
Tex. Admin. Code tit. 40, § 746.4603

§ 746.4603. Are there some types of equipment that children must not use?

Yes. Children must not use the following types of equipment at or away from the child-care center:

(1) Heavy swings made of metal or that have metal components, such as animal figure swings;

(2) Equipment that allows children to fall inside the structure and onto other parts of the structure, such as certain styles of monkey bars or jungle gyms;

(3) Trampolines, except those less than four feet in diameter that are no higher than 12 inches above a properly installed and maintained resilient surface;

(4) Swinging exercise rings and trapeze bars on long chains or free swinging ropes;

(5) Multiple occupancy swings, such as teeter-totters, gliders, or chair swings (other than tire swings); or

(6) Swinging gates and giant strides.

40 TAC § 746.4605
Tex. Admin. Code tit. 40, § 746.4605

§ 746.4605. Are there additional equipment restrictions for children younger than five years of age?

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(a) Yes. Children younger than five years of age must not be allowed to use the following pieces of equipment at or away from the child-care center:

(1) Free standing arch climbers;

(2) Free standing climbing pieces with flexible parts;

(3) Fulcrum seesaws;

(4) Log rolls;

(5) Spiral slides with more than one 360 degree turn; or

(6) Track rides.

(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 child-care center:

(1) Chain or cable walks;

(2) Horizontal ladders;

(3) Vertical slide poles;

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(4) Over-head rings; or

(5) Parallel bars.

40 TAC § 746.4607
Tex. Admin. Code tit. 40, § 746.4607

§ 746.4607. What is the maximum height of the highest designated play surface allowed?

(a) The maximum height of the highest designated play surface on active play equipment is based on the age of children who will be using the equipment.

(b) The maximum height allowed is as follows:

(1) 32 inches for equipment designed to be used by children under the age of two years;

(2) Five feet for equipment designed to be used by children younger than five; or

(3) Seven feet for equipment designed to be used by children who are at least five years of age.

40 TAC § 746.4609
Tex. Admin. Code tit. 40, § 746.4609

§ 746.4609. Do the height requirements apply to my child-care center if it was licensed before December 1, 2010?

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

(1) Six feet for equipment designed to be used by children younger than five years of age; or

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(2) Eight feet for equipment designed to be used by children ages five years and older.

(b) A child-care center licensed before December 1, 2010, must comply with the equipment height requirements specified in this division if the center re-designs the existing playground or adds new playground equipment. The permit holder must meet equipment height requirements specified in this division as the changes are made. You must submit a written plan for compliance to us upon request.

40 TAC § 746.4701
Tex. Admin. Code tit. 40, § 746.4701

§ 746.4701. What are the safety requirements for swings?

(a) All swing seats must be constructed of durable, lightweight, rubber or plastic material.

(b) Edges of all swing seats must be smooth or rounded and have no protrusions.

(c) Swings must not be attached to a composite play structure.

40 TAC § 746.4703
Tex. Admin. Code tit. 40, § 746.4703

§ 746.4703. Are there additional safety requirements for bucket swings designed for tots?

Yes. Bucket swings are intended for use by children under four years of age with an adult present to lift and secure the child into the swing. Therefore, the distance between the protective surfacing and the bottom of a bucket swing must be at least 24 inches. This will minimize the likelihood of unsupervised young children climbing into the swing.

40 TAC § 746.4705
Tex. Admin. Code tit. 40, § 746.4705

§ 746.4705. Are there additional safety requirements for tire swings or other multi-axis swings?

Yes. Tire swings must:

(1) Not be made from heavy truck tires, or tires with exposed steel-belted radials;

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(2) Not be suspended from a composite structure or with other swings in the same swing bay;

(3) Have drainage holes drilled in the underside of the tire and maintained to facilitate water drainage; and

(4) Have a minimum clearance between the seating surface of a tire swing and the uprights of the supporting structure of 30 inches or more when the tire is in a position closest to the support structure.

40 TAC § 746.4751
Tex. Admin. Code tit. 40, § 746.4751

§ 746.4751. What special maintenance procedures must I follow for my active play space and equipment?

(a) The child-care center director or designee must inspect the active play space and equipment daily before children begin play to ensure there are no hazards present.

(b) The child-care center director or designee must conduct at least monthly inspections of the active play space and equipment, utilizing a general maintenance checklist or safety checklist that includes checking the equipment and surfacing material for normal wear and tear, broken or missing parts, debris or foreign objects, drainage problems, or other hazards.

(c) The child-care center director or designee must ensure hazards or defects identified during inspections are removed or repaired promptly, and must arrange for protection of the children or prohibit use of hazardous equipment until the hazards can be removed or repairs can be made.

(d) You must keep maintenance inspections and repair records at the child-care center for review during the center's hours of operation for at least the previous three months.

40 TAC § 746.4801
Tex. Admin. Code tit. 40, § 746.4801

§ 746.4801. What does Licensing mean by the term "use zone"?

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The use zone is the surface area under and around a piece of equipment onto which a child falling from or exiting from the equipment would be expected to land. Other than the equipment itself, the use zone must be free of obstacles that a child could run into or fall on top of and be injured.

40 TAC § 746.4803
Tex. Admin. Code tit. 40, § 746.4803

§ 746.4803. How do I measure the use zone for stationary equipment?

The use zone for stationary equipment, excluding slides and soft contained play equipment, must extend a minimum of six feet in all directions from the perimeter of the equipment. Use zones for stationary equipment must not overlap other use zones.

40 TAC § 746.4805
Tex. Admin. Code tit. 40, § 746.4805

§ 746.4805. How do I measure the use zone for slides?

(a) The use zone in front of the access and to the sides of a slide must extend a minimum of six feet from the perimeter of the equipment.

(b) For slides six feet high or less, the use zone in front of the exit of a slide must extend at least six feet.

(c) For slides greater than six feet high, the use zone in front of the exit of a slide must be equal to the distance from the slide platform to the protective surfacing up to a maximum of eight feet.

(d) The use zone in front of the slide exit must not overlap the use zone of any other equipment.

40 TAC § 746.4807
Tex. Admin. Code tit. 40, § 746.4807

§ 746.4807. How do I measure the use zone for to-fro swings?

(a) The use zone to the front and rear of to-fro swings (single-axis swings) must extend twice the height of the vertical distance from the swing beam to the protective surfacing below.

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(b) The use zone to the front and rear of the to-fro swing must not overlap any other use zone.

(c) The use zone around the sides of the to-fro swing structure (frame which supports the swings) must be at least six feet and may overlap the use zone of an adjacent swing structure.

40 TAC § 746.4809
Tex. Admin. Code tit. 40, § 746.4809

§ 746.4809. How do I measure the use zone for tire swings?

(a) The use zone for tire swings or other multi-axis swings must extend in all directions for a distance equal to the distance from the swing beam to the top of the sitting surface of the tire, plus six feet.

(b) The use zone specified in subsection (a) of this section must not overlap any other use zone.

(c) The use zone on the sides of the tire swing support structure must be at least six feet and may overlap the use zone on the sides of an adjacent swing support structure.

40 TAC § 746.4811
Tex. Admin. Code tit. 40, § 746.4811

§ 746.4811. How do I measure the use zone for bucket swings?

(a) The use zone to the front and rear of the bucket swing for tots must be at least two times the vertical distance from the swing beam to the top of the swing-sitting surface.

(b) The use zone specified in subsection (a) of this section must not overlap any other use zone.

(c) The use zone on the sides of the bucket swing structure must be at least six feet and may overlap the use zone on the sides of an adjacent swing support structure.

40 TAC § 746.4813
Tex. Admin. Code tit. 40, § 746.4813

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§ 746.4813. How do I measure the use zone for rotating or rocking equipment?

(a) The use zone for rotating or rocking equipment on which the child sits must be at least six feet from the perimeter when not in use.

(b) The use zone for rotating or rocking equipment or track rides on which the child stands or rides must be at least seven feet from the perimeter of the equipment when not in use.

(c) The use zone for rocking and rotating equipment must not overlap any other use zone.

40 TAC § 746.4815
Tex. Admin. Code tit. 40, § 746.4815

§ 746.4815. Do the use zone requirements apply to my child-care center if it was licensed before September 1, 2003?

(a) If you were licensed before September 1, 2003, you must at least maintain the following use zones, unless you meet one of the conditions specified in subsection (b) of this section:

(1) Four feet from climbing structures;

(2) Five feet from the bottom of a slide. The other parts of the slide are considered a climbing structure;

(3) Seven feet plus the length of a swing's chain from the point of suspension; and

(4) Seven feet from a merry-go-round or other revolving devices.

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(b) A child-care center licensed before September 1, 2003, must comply with the use zone requirements specified in this division, under the following circumstances:

(1) A child-care center re-designs the existing playground or adds new playground equipment. The permit holder must meet use zone requirements specified in this division as the changes are made. You must submit a written plan for compliance to us upon request.

(2) Your existing permit is no longer valid.

40 TAC § 746.4901

Tex. Admin. Code tit. 40, § 746.4901

§ 746.4901. 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 (area around and under equipment where resilient surfacing is needed to prevent serious injury from occurring as result of a fall) 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 depth of loose materials or the attenuation rating (thickness) of the unitary materials.

40 TAC § 746.4905

Tex. Admin. Code tit. 40, § 746.4905

§ 746.4905. What are acceptable loose-fill surfacing materials?

Loose-fill surfacing materials include, but are not limited to, loose particles such as sand, pea gravel, shredded wood products, and shredded rubber.

40 TAC § 746.4907

Tex. Admin. Code tit. 40, § 746.4907

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

(a) Subject to the requirements in subsection (f) of this section, you must install and maintain loose-fill surfacing materials to a depth of:

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(1) At least six inches when the height of the highest designated play surface is five feet or less; and

(2) At least nine inches when the height of the highest designated play surface is greater than five feet.

(b) You must not install loose-fill surfacing materials over concrete or asphalt.

(c) You must mark all equipment support posts to indicate the depth at which the loose-fill surfacing material must be maintained under and around the equipment.

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

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

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

40 TAC § 746.4908
Tex. Admin. Code tit. 40, § 746.4908
§ 746.4908. Repealed eff. June 1, 2014

40 TAC § 746.4909
Tex. Admin. Code tit. 40, § 746.4909
§ 746.4909. What are unitary surfacing materials?

Unitary surfacing materials are manufactured materials including rubber tiles, mats, or poured-in-place materials cured to form a unitary shock-absorbing surface.

40 TAC § 746.4911
Tex. Admin. Code tit. 40, § 746.4911

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§ 746.4911. How should unitary surfacing materials be installed?

- (a) If you use unitary materials, they must be installed and maintained according to manufacturer's specifications.
- (b) Unitary materials may be installed over concrete or asphalt only if recommended by the manufacturer.

40 TAC § 746.4913
Tex. Admin. Code tit. 40, § 746.4913

§ 746.4913. What documentation must I keep at the child-care center if I use unitary surfacing materials?

If you use unitary surfacing materials, you must have test data from the manufacturer showing the impact rating of the material (the maximum height of equipment that may be installed over the surfacing material), and installation and maintenance requirements. This documentation must be at the child-care center and made available for review by parents and Licensing staff upon request during hours of operation.

40 TAC § 746.4915
Tex. Admin. Code tit. 40, § 746.4915

§ 746.4915. What additional surfacing requirements must my indoor equipment meet?

Floor surfaces under indoor-climbing equipment and platforms over 20 inches in height must have a unitary shock-absorbing surface that will effectively cushion the fall of a child. The surface must be installed in the use zone and maintained according to the manufacturer's directions. See § 746.4801 of this title (relating to What does Licensing mean by the term "use zone"?). Carpeting alone, even if it is installed over thick padding, is not an acceptable resilient surface.

40 TAC § 746.4951
Tex. Admin. Code tit. 40, § 746.4951

§ 746.4951. What is soft contained play equipment?

Soft contained play equipment is a play structure that:

- (1) Is fully enclosed with pliable material such as net, plastic, or fabric;

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(2) The user enters to access one or more play components; and

(3) Allows caregivers to supervise children as specified in § 746.1205 of this title (relating to What does Licensing mean by “supervise children at all times”?).

40 TAC § 746.4953
Tex. Admin. Code tit. 40, § 746.4953

§ 746.4953. Are there additional safety requirements for soft contained play equipment?

Yes, Soft contained play equipment must also:

(1) Not have to-fro, bucket, or tire swings attached inside or outside of the structure;

(2) Have no more than 24 inch difference in height between two connecting platforms;

(3) Have use zones as outlined in § 746.4955 of this title (relating to How do I measure the use zone for soft contained play equipment?) that are free of obstacles and covered with unitary surfacing material;

(4) Be installed, maintained and cleaned according to manufacturer’s instructions; and

(5) Include closer supervision when in use by requiring at least one caregiver to be positioned at each level of the play area.

40 TAC § 746.4955
Tex. Admin. Code tit. 40, § 746.4955

§ 746.4955. How do I measure the use zone for soft contained play equipment?

(a) The use zone for entrances and exits to the soft contained play equipment, excluding slide exits, is a minimum of five feet from all portions of the entrance and exit which are outside of the contained area of the equipment.

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(b) The use zone in front of slide exits must extend a minimum of five feet if the slide run-out is 36 inches or greater. If the slide run-out is less than 36 inches, the use zone at the end of the slide must be six feet. In addition, this use zone may not overlap with any other use zones.

(c) Entrances and exits that terminate inside of the soft contained play equipment are exempt from use zone requirements.

(d) External portions of the soft contained play equipment that contain no designated play surfaces and serve only to enclose the equipment are exempt from use zone requirements.

(e) The critical height of resilient surfacing material must be equal to the highest designated play surface outside of the contained area of the equipment or one foot, whichever is greater.

40 TAC § 746.4971
Tex. Admin. Code tit. 40, § 746.4971

§ 746.4971. May I use inflatable active play equipment?

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

(1) Enclosed inflatables (such as bounce houses or moon bounces) are used by one child at a time;

(2) Open inflatables (such as obstacle courses, slides, games) are used according to the manufacturer's instructions; and

(3) Inflatables that include water activity also comply with all applicable requirements in Subchapter V of this chapter (relating to Swimming Pools and Wading/Splashing Pools).