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Sequence Number: 10-10-08
Rule ID(s): 3630
File Date: 10/21/2008
Effective Date: 9/04/2009

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

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OCT 2 4 2008
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Revision Type (check all that apply):

X Amendment
X New
___ Repeal

Rule(s) Revised (for additional chapters, copy and paste table)

Chapter Number	Chapter Title
1240-04-07	Report Cards and Rated Licensing for Child Care Agencies
Rule Number	**Rule Title**
1240-04-07-.01	Purpose and Scope
1240-04-07-.02	Definitions
1240-04-07-.03	Report Card Evaluation
1240-04-07-.04	Program Assessment
1240-04-07-.05	Child Care Centers
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1240-04-07-.07	Star-Quality Program
1240-04-07-.08	Appeal Process

Chapter 1240-04-07
Report Cards and Rated Licensing for Child Care Agencies

Amendments

Rule 1240-04-07-.01 Purpose and Scope, is amended by deleting the rule in its entirety and inserting the following language so that, as amended, Rule 1240-04-07-.01 shall read as follows:

1240-04-07-.01 Purpose and Scope.

(1) These rules implement the provisions of Tennessee Code Annotated, § 71-3-502(j) requiring that the Department of Human Services, in consultation with the Tennessee Commission on Children and Youth, establish and implement a system for evaluating, individually and collectively, all child care agencies licensed or approved by the Department of Human Services.

(2) This system is to consist of a mandatory annual report card evaluation for each child care agency, and a voluntary rated licensing system that includes a summary which is to be posted at each child care agency reflecting key indicators of performance comparison among all Tennessee child care agencies.

(3) This system is established for the purpose of allowing parents or caretakers of children to make more informed choices regarding the child care options available for their children by comparing the relative quality of child care services offered by licensed child care agencies and to encourage the improvement of child care for Tennessee's children.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 71-3-502(a)(2), 71-3-502(j).

Rule 1240-04-07-.02 Definitions, is amended by deleting the rule in its entirety and inserting the following language so that, as amended, Rule 1240-04-07-.02 shall read as follows:

1240-04-07-.02 Definitions.

(1) Accreditation. The process by which a credentialing authority endorses or approves the child care methods and programs of a child care agency. The Department does not approve or endorse a credentialing authority's standards and/or methods of evaluation.

(2) Assessment Instrument. The valid and reliable measurement tool(s) identified and utilized by DHS to perform an on-site observation and evaluation of the child care agency program and provide a score to that child care agency. The scoring of the instrument(s) produce(s) a valid measure of the quality of the child care program.

(3) Assessment Results Report. A written report containing additional information about the Program Assessment component of an agency's report card evaluation.

(4) Assessor. An individual trained in the use of the Assessment Instrument who conducts the Program Assessment component of the Report Card Evaluation of a child care agency in accordance with the procedures set by the Report Card system and Star-Quality Program.

(5) Bonus Payment. An amount paid through the Child Care Certificate Program that is above and beyond the basic subsidy rate and is based upon the Star-Quality rating achieved by a participating agency.

(6) Certificate Payment. Payments made through Child Care Certificate Program to a participating agency, either at the basic subsidy rate or at the higher rate paid to an eligible child care agency based upon the agency's Star-Quality rating.

(7) Child Care Agency. Includes a child care center, group child care home, or family child care home.

(8) Child Care Center Administrator. An individual(s), corporation, partnership, cooperative, or other public or private entity of any kind, or any combination thereof, that, either personally or through an authorized representative, assumes, or is legally required to assume, ultimate legal, financial and administrative responsibility for the management and control of a child care center.

(9) Child Care Certificate Program. A DHS program that provides financial assistance to eligible families to help cover the cost of child care. A child care agency that applies with the Department for enrollment in the program is eligible to receive certificate payments.

(10) Child Care Environment. The organization of space, interactions of children with each other and with staff, the variety and type of activities offered by the child care agency, the schedule of activities for children, and opportunities provided for staff and parents relating to the areas of professional growth, parental involvement, intentional teaching, and social-emotional development.

(11) Child Care Home Administrator. An individual(s), corporation, partnership, cooperative, or other private or public entity of any kind, or any combination thereof, that, either personally or through an authorized representative, assumes, or is legally required to assume, ultimate responsibility for the management and control of any or all family or group child care homes.

(12) Child Care Resource & Referral (CCR&R). A statewide network of regionally located agencies that assist parents, providers, and the community by offering information on child care and by providing technical assistance, consultation, resource materials, and training to child care providers.

(13) Civil Penalty. A financial sanction imposed by the Department against a child care agency that has violated a licensing regulation. See Rule 1240-04-05-.04

(14) Compliance History. A record of an agency's history with respect to attaining and maintaining compliance with applicable licensing laws and regulations.

(15) Component Areas. The key indicators of performance included on the Star-Quality report card indicating eligibility for levels in the Star-Quality Program.

(16) Criteria. The individual items which are evaluated within each component area of the report card.

(17) Department. The Tennessee Department of Human Services (DHS).

(18) Director. The on-site manager for a child care agency who has overall responsibility for the daily oversight of all staff and direct child care services. The director, with the guidance of the board of directors or owner of the agency, shall be responsible for supervision, training, and evaluation of the staff, the program and the day-to-day operation of the center.

(19) Early Care and Education. A system that includes pre-kindergarten, Head Start, and licensed center-based and home child care programs, dedicated to the care, education, protection, supervision or guidance of children beginning at birth.

(20) License. A permit issued by the Department to a child care agency authorizing the agency (the licensee) to provide child care in accordance with the provisions of the license, the law, and the regulations of the Department of Human Services.

(21) Licensing Evaluation. The verification of compliance with all applicable laws and regulations for the issuance of a new or a renewed license. The evaluation includes all component areas of the report card.

(22) Licensing Program Evaluator. DHS licensing staff responsible for evaluating an agency on all component areas except for the Program Assessment.

(23) Primary Caregiver. The adult who is responsible for direct care and supervision of children in a family or group child care home and for the daily operation of the home. In a child care home, which is not operated by a child care home administrator, the primary caregiver is the licensee. Duties may include hiring, training and supervision of other caregivers.

(24) Professional Development Plan. The written document in which a caregiver has personally identified, with input from the child care agency director/owner, the following:

(a) Long term educational goals;

(b) Early childhood content areas where additional knowledge and skills are needed for delivery of quality child care;

(c) Short term goals for improvement in knowledge and skills of specific early childhood content areas;

(d) A plan of action for successful completion of short term goals which includes steps toward goal(s), available resources, and completion date(s); and

(e) Long term career goals and the support needed for successful completion of these goals.

(25) Program Assessment. The process by which an on-site observation of the activities of a child care agency is conducted and which results in the assignment of a score utilizing the Assessment Instrument.

(26) Rated License. A license issued by the Department to a child care agency that is based upon the agency's overall rating if the agency is eligible for, and chooses to participate in, the Star-Quality Program.

(27) Report Card. A report resulting from the Licensing Evaluation and Program Assessment which details the child care agency's performance in component areas. The report card demonstrates an agency's compliance with licensing requirements and eligibility for the Star-Quality Program.

(28) School-age Developmental Learning Standards. Standards which document the continuum of developmental milestones for school-age children based on the research about the processes, sequences, and long term consequences of learning and development.

(29) Star-Quality Program. A voluntary program, for which eligibility is determined by receiving scores on the report card evaluation that demonstrate more than basic compliance with licensing requirements. An eligible and participating child care agency will receive a Star-Quality Report Card and will be issued either a One-Star, Two-Star or Three-Star rated license.

(30) Star-Quality Report Card. A more detailed report card, issued to an agency that is eligible for and is participating in the Star-Quality Program, which provides the rating for each component area as well as the agency's overall rating.

(31) Teaching Staff. Staff of a child care agency that work with children and that are used to meet adult:child ratios.

(32) Tennessee Early Childhood Training Alliance (TECTA). An early childhood professional development child care system articulated within Higher Education.

(33) Tennessee's Early Childhood Program Administrator Credential (TECPAC). The recognition awarded to early childhood administrators who have demonstrated the specific competencies for effective leadership and management through academics, experiences, and portfolio assessment.

(34) Tennessee Early Learning Developmental Standards (TN-ELDS). A system which documents the continuum of developmental milestones from birth through age five (5) based on the research about the processes, sequences, and long term consequences of early learning and development.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 71-3-502(a)(2), 71-3-502(j).

Rule 1240-04-07-.03 Report Card, is amended by deleting the existing rule in its entirety, renaming the catchline "Report Card Evaluation", amending the Table of Contents accordingly, and inserting the following language so that, as amended, Rule 1240-04-07-.03 shall read as follows:

1240-04-07-.03 Report Card Evaluation.

(1) The licensing evaluation process shall include an evaluation of the child care agency for a report card in accordance with the provisions set forth in this chapter.

(2) A child care agency satisfying basic licensing requirements shall receive a report card with the issuance of its renewed license that sets forth the agency's rating in each component area, based upon applicable criteria contained within each component area.

(3) The component areas measure the key indicators of performance, set forth in Tennessee Code Annotated § 71-3-502(j), as indicated below:

(a) "Director Qualifications" addresses the key indicator of "training, education, certification, and credentials of all supervisory staff, including the director or licensee."

(b) "Professional Development" addresses the key indicator of "training, education, certification, and credentials of all supervisory staff, including the director or licensee."

(c) "Parent/Family Involvement" addresses the key indicator of "child development and enrichment."

(d) "Ratio and Group Size" addresses the key indicator of "staffing ratios."

(e) "Staff Compensation" addresses the key indicator of "training, education, certification, and credentials of all supervisory staff, including the director or licensee."

(f) "Program Assessment" addresses the key indicator of "health and safety," "child development and enrichment," and "adequacy of physical facilities."

(4) Assignment of Ratings.

(a) The rating for each component area indicates the agency's compliance with basic departmental licensing regulations.

(b) Each component area shall receive the maximum rating available as indicated below:

1. A child care agency that does no more than comply with the report card criteria listed under "Complies with Licensing Regulations" shall receive a rating for that component area of "Complies with Licensing Regulations."

2. A child care agency that does no more than comply with the report card criteria listed under "Level One Criteria" shall receive a rating in that component area of "One Star."

3. A child care agency that does no more than comply with the report card criteria listed under "Level Two Criteria" shall receive a rating in that component area of "Two Stars."

4. A child care agency that complies with the report card criteria listed under "Level Three Criteria" shall receive a sub-rating in that component area of "Three Stars."

(c) The agency's overall rating shall be determined by totaling the ratings for each of the component areas and dividing this amount by the total number of component areas rated.

1. If an agency's accreditation has been approved by the Department, two (2) points shall be added to the total of the agency's component ratings.

2. The total of the agency's component ratings shall be divided by five (5) for a Family Child Care Home or a Group Child Care Home.

3. The total of the agency's component ratings shall be divided by seven (7) for a Child Care Center.

4. The resulting average shall be rounded to the one-hundredth (1/100th) decimal point.

5. If the average falls on or between one-hundredths (.01) and forty-nine hundredths (.49), the total shall be rounded down to the next lower whole number.

Example: A total score of two and thirty-nine hundredths (2.39) is rounded down to a total score of two (2.0);

6. If the average falls on or between fifty hundredths (.50) and ninety-nine hundredths (.99), the total shall be rounded up to the next higher whole number.

Example: An average score of two and fifty-seven hundredths (2.57) is rounded up to a total score of three (3.0).

(5) Neither the agency's overall rating, nor the rating on any component area, is subject to modification following completion of the report card evaluation, regardless of any changes that may have occurred in the agency, except as provided for in Rule 1240-04-07-.04(2) below.

(6) The agency's current report card and license shall be posted together in a conspicuous area, as may be directed by the Department.

(7) Notation of Accreditation Status on Agency License and Report Card.

(a) A child care agency may request that the Department recognize accreditation(s) claimed by the agency by submitting to the Department documentation that reasonably verifies that the agency is accredited by a legitimate credentialing authority.

(b) If the Department recognizes the agency's accreditation status, the Department shall list on the agency's license and on the agency's report card any accreditation(s) so recognized.

(c) The Department's recognition of the accreditation status of a child care agency shall not be based upon religious affiliation or ethnicity.

(d) The Department will utilize a standard process in recognizing accrediting bodies.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 71-3-502(a)(2), 71-3-502(j).

Rule 1240-04-07-.04 Star-Quality Child Care Program, is amended by deleting the rule in its entirety, renaming the catchline "Program Assessment", amending the Table of Contents accordingly, and inserting the following language so that, as amended, Rule 1240-04-07-.04 shall read as follows:

1240-04-07-.04 Program Assessment.

(1) Program Assessment.

(a) The assessment scores of each rated classroom shall be assigned by an assessor based upon on-site observation(s) of the child care agency in accordance with the provisions of the appropriate Assessment Instrument for the Report Card Evaluation system.

(b) A child care agency shall allow the assessor reasonable access to the facility and shall otherwise reasonably cooperate with the assessor in the performance of the assessment.

(c) If a child care agency has unreasonably prevented an assessment or has attempted to manipulate the outcome of an assessment, DHS may take the following actions:

1. If the assessment must be rescheduled, the rescheduled assessment may be unannounced;

2. The Department of Human Services may automatically assign the agency a Program Assessment score of zero (0); or

3. A legal referral may be made for imposing a civil penalty of $50 for each day of the continuing violation and may subject the violator to other legal enforcement actions as set forth in Chapter 1240-04-05, which may include, but are not limited to, probation, denial, or revocation of the license.

(d) The method used to calculate the rating assigned to the component area of Program Assessment shall be determined as follows:

1. If the lowest rated classroom score is between zero (0.00) and two and ninety-nine hundredths (2.99), the agency shall be assigned the lowest rated classroom score as the overall rating in the component area of Program Assessment.

Example: The center has rated classroom scores of 2.0, 3.0 and 3.5. The overall rating assigned to the component area is determined by the lowest score that falls below 3.0. In this example, the overall rating for the component area is two (2.0).

2. If the lowest rated classroom score is between three (3.00) and seven (7.00), the overall rating assigned to the agency in the component area of the Program Assessment shall be an average calculated by totaling all rated classroom scores and dividing this total by the total number of rated classrooms.

Example: The center has rated classroom scores of 3.5, 4.0 and 4.5. The overall rating assigned to the component area is determined by the average score of the three (3) classrooms. In this example, the total of the scores is twelve (12.0). This total is divided by the three (3) classroom scores for an average of four (4.0). The overall rating for the component area is four (4.0).

(2) Program Re-Assessment.

(a) Program Re-Assessment is available in the following circumstances:

1. When requested by a child care agency, prior to the Intradepartmental Review provided for in Rule 1240-04-07-.08(3), to address any new or changed conditions that occurred since the date of the agency's last completed assessment.

(i) The child care agency shall be responsible for any and all costs, as determined by the Department, associated with this Program Re-Assessment which shall be paid in advance of the Program Re-Assessment.

(ii) Bonus Payments.

(I) During the period of the re-assessment, the availability / amount of any bonus payments made by the Department

pursuant to 1240-04-07-.07(7)(b) shall be determined by the results of the most recently completed assessment.

(II) Following completion of the re-assessment, the availability / amount of any bonus payments made by the Department shall be determined by the results of the re-assessment.

(iii) The results of any Program Re-Assessment conducted pursuant to the provisions of this subparagraph:

(I) Shall become effective immediately upon the Department's completion of the Program Re-Assessment and shall replace, in their entireties, any prior results for program areas which were re-assessed; and

(II) Shall not be subject to the appeal process set forth in Rule 1240-04-07-.08.

2. When requested by a child care agency following Intradepartmental Review, as an alternative to the administrative hearing provided for in Rule 1240-04-07-.08(4), to address any new or changed conditions that occurred since the date of the agency's last completed assessment. A Program Re-Assessment requested by the child care agency pursuant to this paragraph (2) shall be subject to all provisions specified in part 1 above.

3. When, upon receiving the results of its report card evaluation, the child care agency chooses to appeal the results, pursuant to Rule 1240-04-07-.08, and the appeal results in a Program Re-Assessment due to a finding that the initial assessment conducted by the Department, or some part thereof, was invalid.

(i) The Program Re-Assessment conducted pursuant to this part 3 shall be provided at the expense of the Department.

(ii) The Program Re-Assessment shall be conducted according to the policies and procedures established by the Department and may be limited to the items found to be invalid on the initial assessment.

(iii) Bonus Payments.

(I) During the period of the re-assessment conducted pursuant to this part 3, the availability / amount of any bonus payments made by the Department shall be determined by the results of the most recently completed assessment.

(II) Following completion of the re-assessment, the availability / amount of any bonus payments made by the Department shall be determined by the results of the re-assessment.

(iv) The results of any Program Re-Assessment conducted pursuant to the provisions of this subparagraph:

(I) Shall become effective immediately upon the Department's completion of the Program Re-Assessment and shall

replace, in their entireties, any prior results for program areas which were reassessed; and

(II) For the Program Re-Assessment conducted pursuant to this part 3, the appeal process of Rule 1240-04-07-.08 shall be available.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 71-3-502(a)(2), 71-3-502(j).

Rule 1240-04-07-.05 Reassessment and Appeals is amended by deleting the rule in its entirety, renaming the catchline "Child Care Centers", amending the Table of Contents accordingly, and inserting the following language so that, as amended, Rule 1240-04-07-.05 shall read as follows:

1240-04-07-.05 Child Care Centers.

(1) Component Areas.

(a) Director Qualifications;

(b) Professional Development;

(c) Early Learning;

(d) Parent/Family Involvement;

(e) Ratio and Group Size;

(f) Staff Compensation; and

(g) Program Assessment.

(2) Level One Criteria

(a) Director Qualifications.

1. High School diploma or an equivalent approved by the Department of Education;

2. Thirty (30) hours of pre-service orientation training, including age specific training, inclusion of children with special needs, and business management/administration;

3. An annually updated Professional Development Plan (PDP); and

4. One (1) of the following:

(i) Five (5) years of experience in early (child) care and/or education, with four (4) years experience administering an early (child) care and/or education program; or

(ii) Beginning October 1, 2009, a Program Administrators Credential.

5. Level one child care center director qualifications summary chart:

High School Diploma or approved equivalent; and

Thirty (30) hours pre-service orientation training; and
Annually updated professional development plan (PDP); and
One (1) of the following:
Five (5) years experience in early care and/or education, with four (4) years experience administering an early care and/or education program; or
Effective October 1, 2009 a Program Administrators Credential

(b) Professional Development.

1. All teaching staff shall have a minimum of a high school diploma or an equivalent approved by the Department of Education;

2. At least 50% of the teaching staff, employed at the agency for at least one hundred (120) days, shall have an annually updated Professional Development Plan (PDP) and training hours shall support the goals of the plan;

3. Ten percent (10%) of the teaching staff shall have thirty (30) hours of early childhood education training through TECTA orientation, a Tennessee Technology Center, or, as approved by the Department, equivalent training on a standardized curriculum specific to age group/setting which includes working with children with special needs; and

4. All teaching staff shall annually receive at least three (3) training hours approved by the Department in addition to the minimum training hours required by department regulations.

(c) Developmental Learning.

1. Providers shall maintain copies of the applicable developmental learning standards on site and available to staff.

   (i) TN-ELDS: For directors and teaching staff of children zero to sixty (0 to 60) months.

   (ii) School-age Developmental Learning Standards: For directors and teaching staff of children over sixty (60) months.

2. The director and fifty percent (50%) of teaching staff shall participate in three (3) hours of DHS-approved training on the applicable developmental learning standards.

   (i) At the time of the annual licensing evaluation, the director and fifty percent (50%) of the teaching staff who have been employed at least one hundred twenty (120) days must have received this training within the past three (3) years.

   (ii) Substitutes who have acted as caregivers less than two hundred (200) hours in the previous calendar year shall be exempt from this requirement.

3. The director shall observe and document the use of the applicable developmental learning standards as specified above.

(d) Parent/Family Involvement.

1. A bulletin board updated at least quarterly shall be used for communications and announcements to parents;

2. A written communication shall be provided to parents quarterly;

3. One group parent meeting for all parents of enrolled children shall be offered and documented per licensing year;

4. One individual parent conference that focuses upon the child's developmental status or needs shall be offered and documented per licensing year and

5. The provider shall complete one (1) additional item from the three (3) star category.

(e) Ratio and Group Size.

1. The child care agency must meet the following adult:child (A:C) ratios and group sizes:

	Age	A:C Ratio	Group Size
(i)	Infant	1:4	8
(ii)	Toddler	1:6	12
(iii)	2 yrs.	1:7	14
(iv)	3 yrs.	1:9	18
(v)	4 yrs.	1:13	20
(vi)	5 yrs., not in Kindergarten	1:16	20
(vii)	K and above	1:20	25

2. The adult:child ratio in a multi-age grouping shall be determined by the age of the majority of the children in the group unless the group contains an infant, in which case the adult:child ratio for infants shall always be maintained. If the ages of the children are evenly divided and, thus, there is no majority age, the adult:child ratio for the group shall be determined by the adult:child ratio required in a single age grouping of the youngest child in the group.

(f) Staff Compensation.

1. A pay scale for teaching staff must be established; and

2. At least two (2) of the following employee benefits must be provided:

(i) Payment of individual professional membership or association fees;

(ii) Insurance supplement;

(iii) Paid leave (e.g., sick, vacation, holiday, personal, family, bereavement);

(iv) Reduced fee to staff for child care services;

(v) Money or cash equivalent bonuses (e.g., gift cards);

(vi) Insurance (e.g., health, life, accident, disability, dental, vision);

(vii) Tuition for academic education;

(viii) Paid participation in staff development/training (within federal and state law);

(ix) Retirement fund (e.g., 401k);

(x) Flex time (within federal and state law);

(xi) Differential shift pay.

(g) Program Assessment.

1. The total average Program Assessment score, as determined in accordance with this chapter, is four (4.0) to four and forty-nine hundredths (4.49); and

2. Following an agency's annual assessment, an improvement plan based on the agency's Assessment Results Report shall be developed.

(3) Level Two Criteria.

(a) Director Qualifications.

1. High School diploma or an equivalent approved by the Department of Education;

2. Thirty (30) hours of pre-service orientation training, including age specific training, children with special needs, and business management/administration;

3. An annually updated Professional Development Plan (PDP); and

4. One (1) of the following:

(i) Eight (8) years of experience in early (child) care and/or education with four (4) years experience administering an early care and/or education program;

(ii) A bachelor's degree or higher in a relevant area (including early childhood education, child development, education, liberal arts, business administration, human ecology and/or consumer

sciences) and five (5) years of experience in early (child) care and/or education; or

(iii) Beginning October 1, 2009, a Program Administrator Credential.

5. Level two child care center director qualifications summary chart:

High School Diploma or approved equivalent; and
Thirty (30) hours of pre-service orientation training including age specific training, inclusion of children with special needs, and business management/administration; and
Annually updated Professional Development Plan (PDP); and
One (1) of the following:
Eight (8) years experience in early care and/or education with four (4) years experience administering an early care and/or education program; or
Bachelor's degree or higher in a relevant area (including early childhood education, child development, education, liberal arts, business administration, human ecology and/or consumer sciences) and five (5) years of experience in early care and/or education; or
Effective October 1, 2009 a Program Administrators Credential

(b) Professional Development.

1. All teaching staff shall have a high school diploma or an equivalent approved by the Department of Education;

2. At least seventy-five percent (75%) of the teaching staff, employed at the agency for at least one hundred twenty (120) days, shall have an annually updated Professional Development Plan (PDP) and training hours that support the goals of the plan; and

3. At least twenty–five percent (25%) of teaching staff shall have one (1) of the following:

(i) Three (3) years of experience in early (child) care and/or education and thirty (30) hours of early childhood education training through TECTA orientation, a Tennessee Technology Center, or, as approved by the Department, equivalent training on a standardized curriculum specific to age group/setting that includes working with children with special needs, or documented enrollment therein; or

(ii) Documentation of enrollment from an instructor showing annual progression in a Child Development Associate credential or Early Childhood Technical Certificate [minimum of eighteen (18) cumulative credit hours awarded by an accredited academic institution] program; and

4. All teaching staff shall annually receive at least three (3) training hours approved by the Department in addition to the minimum training hours required by department regulations.

(c) Developmental Learning.

1. Providers shall maintain copies of the applicable developmental learning standards on site and available to staff.

   (i) TN-ELDS: For directors and teaching staff of children zero to sixty (0 to 60) months.

   (ii) School-age Developmental Learning Standards: For directors and teaching staff of children over sixty (60) months.

2. The director and seventy-five percent (75%) of teaching staff shall participate in three (3) hours of DHS approved training on the applicable developmental learning standards.

   (i) At the time of the annual licensing evaluation, the director and seventy-five percent (75%) of the teaching staff who have been employed at least one hundred twenty (120) days must have received this training within the past three (3) years.

   (ii) Substitutes who have acted as caregivers less than two hundred (200) hours in the previous calendar year shall be exempt from this requirement.

3. The director shall observe and document the use of the applicable developmental learning standards as specified above.

(d) Parent/Family Involvement.

1. A bulletin board updated at least quarterly shall be used for communications and announcements to parents;

2. A written communication shall be provided to parents every two months;

3. One group parent meeting for all parents of enrolled children shall be offered and documented per licensing year;

4. One individual parent conference that focuses upon the child's developmental status or needs shall be offered and documented per licensing year;

5. Parent education handouts shall be provided to all parents on a variety of issues pertinent to the parent and child; and

   Examples:
   Speech and Language Development, Toilet Learning, Healthy Snacks, Tips for Dealing with Challenging Behaviors, Healthy Habits, Immunization Information, Preventing Child Abuse, Activities that Promote Development (available for different ages), Special Needs and Inclusion, and Strengthening Families Program Strategies: Facilitate friendships and mutual support; Strengthen parenting; Respond to family crises; Link families to services and opportunities; Facilitate children's social and emotional development; Observe and respond to early warning signs of child abuse or neglect; Value and support parents. Handouts related to topics such as these are available from CCR&R and TECTA.

6. The provider shall complete two (2) additional items from the Three (3) Star category.

(e) Ratio and Group Size.

1. The child care agency must meet the following adult:child (A:C) ratios and group sizes:

	Age	A:C Ratio	Group Size
(i)	Infant	1:4	8
(ii)	Toddler	1:5	10
(iii)	2 yrs.	1:6	12
(iv)	3 yrs.	1:9	18
(v)	4 yrs.	1:13	20
(vi)	5 yrs., not in Kindergarten	1:16	20
(vii)	K–8 yrs.	1:18	25
(viii)	9-12 yrs.	1:20	25

2. The adult:child ratio in a multi-age grouping shall be determined by the age of the majority of the children in the group unless the group contains an infant, in which case the adult:child ratio for infants shall always be maintained. If the ages of the children are evenly divided, and, thus there is no majority age, the adult:child ratio for the group shall be set by the adult:child ratio required in a single age grouping of the youngest child in the group.

(f) Staff Compensation.

1. A pay scale for teaching staff shall be established; and

2. At least three (3) of the following employee benefits shall be provided:

(i) Payment of individual professional membership or association fees;

(ii) Insurance supplement;

(iii) Paid leave (e.g., sick, vacation, holiday, personal, family, bereavement);

(iv) Reduced fee to staff for child care services;

(v) Money or cash equivalent bonuses (e.g., gift cards);

(vi) Insurance (e.g., health, life, accident, disability, dental, vision);

(vii) Tuition for academic education;

(viii) Paid participation in staff development/training (within federal and state law);

(ix) Retirement fund (e.g., 401k);

(x) Flex time (within federal and state law);

(xi) Differential shift pay.

(g) Program Assessment.

1. The total average Program Assessment score, as determined in accordance with this chapter, shall be four and fifty hundredths (4.50) to four and ninety-nine hundredths (4.99); and

2. Following an agency's annual assessment, an improvement plan based on the agency's Assessment Results Report shall be developed.

(4) Level Three Criteria.

(a) Director Qualifications.

1. Twenty (20) hours of training annually, including the Department's annual licensing training requirements for directors;

2. An annually updated Professional Development Plan (PDP); and

3. One (1) of the following:

(i) High School diploma or an equivalent approved by the Department of Education with current Child Development Associate credential or Early Childhood Technical Certificate [minimum of eighteen (18) cumulative credit hours awarded by an accredited academic institution] or equivalent and seven (7) years of experience administering an early care and/or education program; or

(ii) Associates degree in relevant area (including early childhood education, child development, education, liberal arts, business administration, human ecology, or consumer sciences) and four (4) years experience administering an early care and/or education program; or

(iii) Relevant bachelor's degree or higher (including early childhood education, child development, education, liberal arts, business administration, human ecology and/or consumer sciences) and two (2) years experience administering an early child care and/or education program; or

(iv) Beginning October 1, 2009, a Program Administrator Credential.

4. Level three child care center director qualifications summary chart:

Twenty (20) hours of training annually, including the Department's annual licensing training requirements for Directors; and

Annually updated Professional Development Plan (PDP); and
One (1) of the following:
High School diploma or approved equivalent with current Child Development Associate credential or Early Childhood Technical Certificate [minimum of eighteen (18) cumulative credit hours awarded by an accredited academic institution] or equivalent and seven (7) years of experience administering an early care and/or education program; or
Associates Degree in relevant area (including early childhood education, child development, education, liberal arts, business administration, human ecology, or consumer sciences) and four (4) years experience administering an early care and/or education program; or
Relevant Bachelor's degree or higher (including early childhood education, child development, education, liberal arts, business administration, human ecology and/or consumer sciences) and two (2) years experience administering an early child care and/or education program; or
Effective October 1, 2009 a Program Administrators Credential.

(b) Professional Development.

1. All teaching staff shall have a high school diploma or an equivalent approved by the Department of Education;

2. All teaching staff, employed at the agency for at least one hundred twenty (120) days, shall have an annually updated Professional Development Plan (PDP) and training hours that support the goals of the plan;

3. The agency shall have a written plan for transitioning children affected by teaching staff turnover;

4. All teaching staff shall receive at least six (6) hours of annual training approved by the Department in addition to the minimum training hours required by department regulations; and

5. Fifty percent (50%) of teaching staff shall have one (1) of the following:

   (i) Four (4) years experience in an early (child) care and/or education program and documented enrollment in TECTA orientation or equivalent training as approved by the Department;

   (ii) Three (3) years experience in an early (child) care and/or education program and documentation of enrollment from an instructor showing annual progression in a Child Development Associate credential or Early Childhood Technical Certificate [minimum of eighteen (18) cumulative credit hours awarded by an accredited academic institution] program or equivalent;

   (iii) Two (2) years experience in an early (child) care and/or education program and a current Child Development Associate credential or Early Childhood Technical Certificate [minimum of eighteen (18)

cumulative credit hours awarded by an accredited academic institution] or equivalent;

(iv) One (1) year experience in an early (child) care and/or education program and associates degree in relevant field;

(v) Bachelor's degree or higher in relevant field. For purposes of the provisions of this item, the term "relevant field" is defined as a degree in early childhood education, child development, education, liberal arts, business administration, human ecology, and/or consumer sciences, or a degree in any field with a minimum of six (6) semester hours in any of these listed fields.

(c) Developmental Learning.

1. Providers shall maintain copies of the applicable developmental learning standards on site and available to staff.

(i) TN-ELDS: For directors and teaching staff of children zero to sixty (0 to 60) months.

(ii) School-age Developmental Learning Standards: For directors and teaching staff of children over sixty (60) months.

2. The director and one hundred percent (100%) of teaching staff shall participate in three (3) hours of DHS-approved training on the applicable developmental learning standards.

(i) At the time of the annual licensing evaluation, the director and one hundred percent (100%) of the teaching staff who have been employed at least one hundred twenty (120) days must have received this training within the past three (3) years.

(ii) Substitutes who have acted as caregivers less than two hundred (200) hours in the previous calendar year shall be exempt from this requirement.

3. The director shall observe and document the use of the applicable developmental learning standards as specified above.

(d) Parent/Family Involvement.

1. A bulletin board updated at least quarterly shall be used for communications and announcements to parents;

2. A written communication shall be provided to parents monthly;

3. One group parent meeting for all parents of enrolled children shall be offered and documented per licensing year;

4. One individual parent conference that focuses upon the child's developmental status or needs shall be offered and documented per licensing year;

5. Parent education handouts shall be provided to all parents on a variety of issues pertinent to the parent and child;

   Examples:
   Speech and Language Development, Toilet Learning, Healthy Snacks, Tips for Dealing with Challenging Behaviors, Healthy Habits, Immunization Information, Preventing Child Abuse, Activities that Promote Development (available for different ages), Special Needs and Inclusion , and Strengthening Families Program Strategies: Facilitate friendships and mutual support; Strengthen parenting; Respond to family crises; Link families to services and opportunities; Facilitate children's social and emotional development; Observe and respond to early warning signs of child abuse or neglect; Value and support parents. Handouts related to topics such as these are available from CCR&R and TECTA.

6. One project or activity involving families in the child care center shall be offered and documented;

7. One parent education training per licensing year to all families receiving service such as child development stages, creative curriculum, infant and toddler curriculum, or age appropriate behavior management shall be offered and documented;

8. A list of current community resources for enrolling parents shall be provided;

9. Parents shall be offered an annual opportunity to evaluate the curriculum, structure, and parent involvement aspects of the program; and

10. A Parent Advisory Council that meets at least two (2) times per year to help implement and improve plans concerning parental involvement, curriculum, and program structure shall be established and maintained, and meetings shall be documented.

(e) Ratio and Group Size

1. The child care agency must meet the following adult:child (A:C) ratios and group sizes:

	Age	A:C Ratio	Group Size
(i)	Infant	1:4	8
(ii)	Toddler	1:4	12
(iii)	2 yrs.	1:5	10
(iv)	3 yrs.	1:8	16
(v)	4 yrs.	1:13	20
(vi)	5 yrs., not in Kindergarten	1:15	20

(vii)	K–8 yrs.	1:17	25
(viii)	9-12 yrs.	1:19	25

2. The adult:child ratio in a multi-age grouping shall be determined by the age of the majority of the children in the group unless the group contains an infant, in which case the adult:child ratio for infants shall always be maintained. If the ages of the children are evenly divided and, thus, there is no majority age, the adult:child ratio for the group shall be set by the adult:child ratio required in a single age grouping of the youngest child in the group.

(f) Staff Compensation.

1. A pay scale for all staff shall be established;

2. A pay scale for teaching staff which is tied to the employee's education/training and longevity in child care/early childhood services shall be established; and

3. At least four (4) of the employee benefits listed below shall be provided:

(i) Payment of individual professional membership or association fees;

(ii) Insurance supplement;

(iii) Paid leave (e.g., sick, vacation, holiday, personal, family, bereavement);

(iv) Reduced fee to staff for child care services;

(v) Money or cash equivalent bonuses (e.g., gift cards);

(vi) Insurance (e.g., health, life, accident, disability, dental, vision);

(vii) Tuition for academic education;

(viii) Paid participation in staff development/training (within federal and state law);

(ix) Retirement fund (e.g., 401k);

(x) Flex time (within federal and state law);

(xi) Differential shift pay.

(g) Program Assessment.

1. Total average Program Assessment score, as determined in accordance with this chapter, shall be at least five (5.0); and

2. Following an agency's annual assessment, an improvement plan based on the agency's Assessment Results Report shall be developed.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 71-3-502(a)(2), 71-3-502(j).

Chapter 1240-04-07
Report Cards and Rated Licensing for Child Care Agencies

New Rules

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1240-04-07-.06 Family Child Care Homes and Group Child Care Homes.

(1) Component Areas.

(a) Professional Development;

(b) Early Learning;

(c) Parent/Family Involvement;

(d) Business Management; and

(e) Program Assessment.

(2) Level One Criteria.

(a) Professional Development.

1. Primary caregivers and administrators, employed at the agency for at least one hundred twenty (120) days, shall have an annually updated Professional Development Plan (PDP) and training hours that support the goals of the plan;

2. The primary caregiver shall have thirty (30) hours of family child care training or documented enrollment therein through TECTA, a Tennessee Technology Center, National Association for Family Child Care Foundation accreditation training, or other training as approved by the Department; and

3. One (1) of the following:

(i) Complete ten (10) hours of annual training in addition to the thirty (30) hours of training required in part 2 above and the minimum training hours required by department regulations;

(ii) Complete thirty (30) cumulative hours towards the Child Development Associate Credential; or

(iii) Complete six (6) cumulative credit hours toward an Early Childhood Technical Certificate awarded by an accredited academic institution.

(b) Developmental Learning.

1. Primary caregivers shall maintain copies of the applicable developmental learning standards on site and available to staff.

   (i) TN-ELDS: For primary caregivers and teaching staff of children zero to sixty (0 to 60) months.

   (ii) School-age Developmental Learning Standards: For primary caregivers and teaching staff of school-age only programs (all children over sixty (60) months).

2. Fifty percent (50%) of teaching staff, including the primary caregiver, shall participate in three (3) hours of DHS approved training on the applicable developmental learning standards.

   (i) At the time of the annual licensing evaluation, fifty percent (50%) of teaching staff, including the primary caregiver, who have been employed at least one hundred twenty (120) days must have received this training within the past three (3) years.

   (ii) Substitutes who have acted as caregivers less than two hundred (200) hours in the previous calendar year shall be exempt from this requirement.

3. The primary caregiver shall observe and document the use of the applicable developmental learning standards as specified above.

4. In programs with a single caregiver, the use of the applicable developmental learning standards shall be documented annually.

(c) Parent/Family Involvement.

1. An orientation meeting shall be held for parents / family / children new to the agency;

2. A written communication shall be provided to parents quarterly;

3. One individual parent conference that focuses upon the child's developmental status or needs shall be offered and documented per licensing year;

4. Effective January 1, 2010, a bulletin board updated at least quarterly shall be used for communications and announcements to parents; and

5. Effective January 1, 2010, the provider shall complete one (1) additional item from the Three (3) Star category.

(d) Business Management.

A parent packet shall be provided with the following:

1. Personalized contracts between the child care agency and the parent;

2. The child care agency's policies;

3. The child care agency's philosophy;

4. Parent resources; and

5. If children with special needs are enrolled or are applying for enrollment, information on resources for such children.

(e) Program Assessment.

1. The total average Program Assessment score, as determined in accordance with this chapter, is four (4.0) to four and forty-nine hundredths (4.49); and

2. Following an agency's annual assessment, an improvement plan based on the agency's Assessment Results Report shall be developed.

(3) Level Two Criteria.

(a) Professional Development.

1. Primary caregivers and administrators, employed at the agency for at least one hundred twenty (120) days, shall have an annually updated Professional Development Plan (PDP) and training hours that support the goals of the plan;

2. The primary caregiver shall have thirty (30) hours of family child care training or documented enrollment therein through TECTA, a Tennessee Technology Center, National Association for Family Child Care Foundation accreditation training, or other training as approved by the Department;

3. Every year the primary caregiver shall complete ten (10) hours of training in addition to the thirty (30) hours of training required in subpart (ii) above and the minimum training hours required by department regulations; and

4. One (1) of the following:

(i) Maintain membership in a family care support group and/or local, state, or national association;

(ii) Complete ninety (90) cumulative classroom hours toward the Child Development Associate credential; or

(iii) Complete twelve (12) cumulative credit hours toward an Early Childhood Technical Certificate awarded by an accredited academic institution.

(b) Developmental Learning.

1. Primary caregivers shall maintain copies of the applicable developmental learning standards on site and available to staff.

(i) TN-ELDS: For primary caregivers and teaching staff of children zero to sixty (0 to 60) months.

(ii) School-age Developmental Learning Standards: For primary caregivers and teaching staff of school-age only programs (all children over sixty (60) months).

2. Seventy-five percent (75%) of teaching staff, including the primary caregiver, shall participate in three (3) hours of DHS-approved training on the applicable developmental learning standards.

   (i) At the time of the annual licensing evaluation, seventy-five percent (75%) of teaching staff, including the primary caregiver, who have been employed at least one hundred twenty (120) days must have received this training within the past three (3) years.

   (ii) Substitutes who have acted as caregivers less than two hundred (200) hours in the previous calendar year shall be exempt from this requirement.

3. The primary caregiver shall observe and document the use of the applicable developmental learning standards as specified above.

4. In programs with a single caregiver the use of the applicable developmental learning standards shall be documented annually.

(c) Parent/Family Involvement.

1. An orientation meeting shall be held for parents / family / children new to the agency;

2. A written communication shall be provided to parents every two months;

3. One group parent meeting for all parents of enrolled children shall be offered and documented per licensing year;

4. One individual parent conference that focuses upon the child's developmental status or needs shall be offered and documented per licensing year;

5. Parent education handouts shall be provided to all parents on a variety of issues pertinent to the parent and child;

   Examples:
   Speech and Language Development, Toilet Learning, Healthy Snacks, Tips for Dealing with Challenging Behaviors, Healthy Habits, Immunization Information, Preventing Child Abuse, Activities that Promote Development (available for different ages), Special Needs and Inclusion, and Strengthening Families Program Strategies: Facilitate friendships and mutual support; Strengthen parenting; Respond to family crises; Link families to services and opportunities; Facilitate children's social and emotional development; Observe and respond to early warning signs of child abuse or neglect; Value and support parents. Handouts related to topics such as these are available from CCR&R and TECTA.

6. Effective January 1, 2010, a bulletin board updated at least quarterly shall be used for communications and announcements to parents; and

7. Effective January 1, 2010, the provider shall complete two (2) additional items from the Three (3) Star category.

(d) Business Management.

1. A parent packet shall be provided with the following:

(i) Personalized contracts between the child care agency and the parent;

(ii) The child care agency's policies;

(iii) The child care agency's philosophy;

(iv) Parent resources, and

(v) If children with special needs are enrolled or applying for enrollment, information on resources for such children.

2. A system for financial and program record-keeping shall be maintained.

(e) Program Assessment.

1. The total average Program Assessment score, as determined in accordance with this chapter, shall be four and fifty hundredths (4.50) to four and ninety-nine hundredths (4.99); and

2. Following an agency's annual assessment, an improvement plan based on the agency's Assessment Results Report shall be developed.

(4) Level Three Criteria.

(a) Professional Development.

1. Primary caregivers and administrators, employed at the agency for at least one hundred twenty (120) days, shall have an annually updated Professional Development Plan (PDP) and training hours that support the goals of the plan;

2. Every year the primary caregiver shall complete twenty (20) hours of training, that is approved by the Department, in addition to the minimum training hours required for licensure by department regulations;

3. The primary caregiver shall maintain membership, and documented participation in, a family care support group and/or local, state, or national association; and

4. One (1) of the following:

(i) The primary caregiver shall hold a current Child Development Associate credential and/or an Early Childhood Technical Certificate with a minimum of eighteen (18) cumulative credit hours awarded by an accredited academic institution, or equivalent credential as approved by the Department. If the primary caregiver does not hold a current Child Development Associate credential or Early Childhood Technical Certificate, the primary caregiver must have an associates degree or higher and two (2)

years of documented child care experience in early (child) care and/or other education program;

(ii) The primary caregiver must have completed all Child Development Associate credential course work and have applied for testing or must have completed testing and be awaiting the Child Development Associate credential results; or

(iii) The primary caregiver must have completed and submitted all renewal requirements and be awaiting the renewal from Child Development Associate Credential Council.

(b) Developmental Learning.

1. Primary caregivers shall maintain copies of the applicable developmental learning standards on site and available to staff.

(i) TN-ELDS: For primary caregivers and teaching staff of children zero to sixty (0 to 60) months.

(ii) School-age Developmental Learning Standards: For primary caregivers and teaching staff of school-age only programs (all children over sixty (60) months).

2. One hundred percent (100%) of teaching staff, including the primary caregiver, shall participate in three (3) hours of DHS approved training on the applicable developmental learning standards.

(i) At the time of the annual licensing evaluation, one hundred percent (100%) of teaching staff, including the primary caregiver, who have been employed at least one hundred twenty (120) days must have received this training within the past three (3) years.

(ii) Substitutes who have acted as caregivers less than two hundred (200) hours in the previous calendar year shall be exempt from this requirement.

3. The primary caregiver shall observe and document the use of the applicable developmental learning standards as specified above.

4. In programs with a single caregiver the use of the applicable developmental learning standards shall be documented annually.

(c) Parent/Family Involvement.

1. An orientation meeting shall be held for parents / family / children new to the agency;

2. A written communication shall be provided to parents monthly;

3. One group parent meeting for all parents of enrolled children shall be offered and documented per licensing year;

4. One individual parent conference that focuses upon the child's developmental status or needs shall be offered and documented per licensing year;

5. Parent education handouts shall be provided to all parents on a variety of issues pertinent to the parent and child;

   Examples:
   Speech and Language Development, Toilet Learning, Healthy Snacks, Tips for Dealing with Challenging Behaviors, Healthy Habits, Immunization Information, Preventing Child Abuse, Activities that Promote Development (available for different ages), Special Needs and Inclusion, and Strengthening Families Program Strategies: Facilitate friendships and mutual support; Strengthen parenting; Respond to family crises; Link families to services and opportunities; Facilitate children's social and emotional development; Observe and respond to early warning signs of child abuse or neglect; Value and support parents. Handouts related to topics such as these are available from CCR&R and TECTA.

6. One project or activity involving families in the child care home shall be offered and documented;

7. A list of current community resources for enrolling parents shall be provided;

8. Parents shall be offered an annual opportunity to evaluate the curriculum, structure, and parent involvement aspects of the program; and

9. Effective January 1, 2010, a bulletin board updated at least quarterly shall be used for communications and announcements to parents.

(d) Business Management.

1. A parent packet shall be provided with the following:

   (i) Personalized contracts between the child care agency and the parent;

   (ii) The child care agency's policies;

   (iii) The child care agency's philosophy;

   (iv) Parent resources, and

   (v) If children with special needs are enrolled or applying for enrollment, information on resources for such children.

2. A system for financial and program record-keeping shall be maintained.

3. Orientation for staff substitutes shall be documented.

(e) Program Assessment.

1. The Program Assessment score, as determined in accordance with this chapter, shall be at least five (5.0); and

2. Following an agency's annual assessment, an improvement plan based on the agency's Assessment Results Report shall be developed.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 71-3-502(a)(2), 71-3-502(j).

1240-04-07-.07 Star-Quality Program.

(1) The annual evaluation of a child care agency for the issuance of the report card, in accordance with the provisions of this chapter, shall include an evaluation of the agency's eligibility to voluntarily participate in the Star-Quality Program.

(2) A newly licensed child care agency shall receive a Star-Quality Report Card after a full year of operation.

(3) Eligibility and Participation.

(a) A child care agency that receives an overall rating, pursuant to Rule 1240-04-07-.03(4), of at least One Star shall be eligible to participate in the Star-Quality Program.

(b) In no event shall an agency be eligible to participate in the Star-Quality Program unless the agency has received a One-Star rating in the Program Assessment component area.

(c) A child care agency that does not wish to participate in the Star-Quality Program shall sign and return the Decline to Participate Statement that is included in the re-evaluation application packet.

(d) If, after submitting the Decline to Participate Statement, a child care agency changes its mind about participating in the Star-Quality Program, the agency shall provide to the Department a written request to participate.

(e) A new child care agency receiving an initial license and report card are not evaluated for an overall rating and shall not be eligible to participate in the Star-Quality Program, unless specifically requested by the agency and approved by the Department.

(4) A child care agency that chooses to participate in the Star-Quality Program shall be issued:

(a) A license which denotes the overall rating assigned to the agency; and

(b) A Star-Quality Report Card that details the agency's rating in each of the report card component areas and provides the agency's compliance history.

(5) A child care agency that receives a Star-Quality Report Card and a rated license through the Star-Quality Program shall immediately post the current license and the report card in a conspicuous manner that is easily viewable by parents.

(6) Biennial and Triennial Application Fees.

(a) A child care center that has earned two (2) stars in the Star-Quality Program is eligible to pay a biennial licensing fee in place of the annual licensing fee.

(b) A child care center that has earned three (3) stars in the Star-Quality Program is eligible to pay a triennial licensing fee in place of the annual licensing fee.

(c) The availability of the biennial or triennial application fee shall be determined by the Department based upon an overall evaluation of the agency's capabilities and history and in accordance with the provisions for the rated license system as governed by this chapter.

(d) Payment of a biennial or triennial licensing fee will not eliminate the requirement for an annual licensing evaluation.

(7) Child Care Certificate Program.

(a) All licensed child care agencies are eligible to receive at least the base rate of reimbursement paid through the Child Care Certificate Program.

(b) A licensed child care agency that is eligible for and chooses to participate in the Star-Quality Program is eligible to receive bonus payments through the Child Care Certificate Program as indicated below:

1. Agencies attaining a rating of "One Star" shall receive the base rate plus five percent (5%) of the base rate as a bonus payment.

2. Agencies attaining a rating of "Two Stars" shall receive the base rate plus fifteen percent (15%) of the base rate as a bonus payment.

3. Agencies attaining a rating of "Three Stars" shall receive the base rate plus twenty percent (20%) of the base rate as a bonus payment.

(8) Change in Star Rating.

(a) Licensing enforcement actions for non-compliance with basic licensure rules that occur at any point throughout the licensing-year cycle can result in the loss of stars that were earned in the previous evaluation and/or can disqualify the agency from receiving stars that might have otherwise been earned in a new evaluation.

(b) Licensing enforcement actions that can disqualify the agency from retaining / earning a star rating are the following:

1. Being placed on probation;

2. Having all or part of the license suspended by the Department (excluding voluntary suspension by the agency for the purpose of making immediate correction);

3. Being fined with one (1) major civil penalty; or

4. Being fined with five (5) or more minor civil penalties.

(c) The star rating which results from a licensing enforcement action shall take effect immediately following the completion of due process provided for in Rule 1240-04-05-.04.

(d) The star rating resulting from a licensing enforcement action shall last for a period of six (6) consecutive months, so long as no subsequent licensing enforcement action occurs during the six (6) months which results in an extension of the penalty period.

(e) An agency is not eligible for bonus payments during the six (6) month penalty period.

(f) At the end of the six (6) consecutive months, an agency shall be entitled to the most recently earned star rating and the associated bonus payments, so long as the agency had not been subject to an additional licensing enforcement action during the penalty period. The star rating shall be restored to the agency's records.

(9) A child care agency shall not be eligible to participate in the Star-Quality Program if any of the following occurred between the date of the agency evaluation and the date the rated license through the Star-Quality Program is issued by the Department:

(a) The child care agency has been assessed with a major civil penalty;

(b) The child care agency has been assessed with five (5) or more minor civil penalties;

(c) The child care agency has been subject to probation or a suspension, denial or revocation of its license.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 71-3-502(a)(2), 71-3-502(j).

1240-04-07-.08 Appeal Process.

(1) Upon receiving its results, a child care agency may choose to appeal any part of its report card evaluation, including:

(a) The rating of any component area; and/or

(b) The overall agency rating.

(2) Changes made within, or by, the agency after the date of the last complete licensing evaluation and/or the validity of the evaluation instrument used to conduct the agency's Program Assessment shall not be considered in the appeal process.

(3) Intradepartmental Review.

The appeal process shall begin with the request for an Intradepartmental Review, to be conducted according to the policies and procedures established by the Department.

(a) The request for an Intradepartmental Review shall be in writing and shall include:

1. A statement that identifies the specific information and/or rating that is in dispute;

2. A statement that identifies the basis upon which the agency is alleging that an error has occurred;

3. Supporting documentation with the written request; and

4. If the information required by this subparagraph (a) is not provided by the child care agency, the appeal may be dismissed at the sole discretion of the Department.

(b) Issues considered during the Intradepartmental Review shall be limited to:

1. Whether, at the time of the licensing evaluation, the agency was provided proper credit for compliance with the criteria required in each of the report card component areas; and/or

2. Whether the agency's rating was otherwise correctly calculated.

(c) The written request for Intradepartmental Review must be received by the Department within twenty (20) business days following the date of mailing of the notice of the report card evaluation to the child care agency.

(d) Intradepartmental Review is an informal process not subject to the contested case provisions of the Administrative Procedures Act, T.C.A. §§ 4-5-301 et seq. and shall precede, and must be completed before, any Administrative Hearing.

(e) In conducting the Intradepartmental Review, the Department may take any of the following actions as deemed appropriate in its discretion:

1. Request additional information from the child care agency and/or third parties;

2. Examine additional documentation from the child care agency and/or third parties; and/or

3. Conduct an informal hearing, not subject to the provisions of T.C.A. §§ 4-5-301 et seq., that may include statements from the child care agency and/or third parties.

(f) The Department shall complete the review and render a written decision to the child care agency within forty-five (45) business days of receipt by the Department of the written request for review.

(g) Bonus Payments.

1. During the Intradepartmental Review process, the agency can elect to receive its bonus payments based upon the results of the previous report card evaluation or based upon the currently disputed report card evaluation.

2. If the agency chooses to receive bonus payments based upon the results of the previous report card evaluation and the Intradepartmental Review does not result in an increase to the agency's rating, the agency will be required to refund to the Department the amount of the overpayment, which may be accomplished through recoupment by the Department of future amounts owed to the child care agency.

3. If the agency chooses to receive bonus payments based upon the results of the currently disputed report card evaluation and the Intradepartmental Review results in an increase to the agency's rating which warrants an increase in the amount of the bonus payment, the Department will pay to

the agency the difference between the two amounts that accrued during the Intradepartmental Review process.

(h) Upon completion of the Intradepartmental Review, the agency may request either of the following:

1. If dissatisfied with the results of the Intradepartmental Review, an Administrative Hearing, as provided for in paragraph (4) below; or

2. A Program Reassessment, as provided for in Rule 1240-04-07-.04(2) above, after which an Administrative Hearing shall no longer be available.

(i) Upon completion of the Intradepartmental Review, the agency shall receive the rating resulting from the review process, as well as the certificate payments that are commensurate with that rating.

(4) Administrative Hearing.

(a) A request for Administrative Hearing must be submitted to the Department by the agency within ten (10) business days after the mailing date of the Department's written decision from the Intradepartmental Review.

(b) The issues addressed in the Administrative Hearing are limited to the issues raised during the Intradepartmental Review.

(c) The Administrative Hearing shall be conducted as a contested case proceeding by the Department's Appeals and Hearings Division according to T.C.A. §§ 4-5-301 et seq.

(d) The hearing officer shall render a written decision within thirty (30) business days after the hearing and shall send a copy of such decision to the Department and to the child care agency.

(e) Bonus Payments.

1. If the agency requests an Administrative Hearing, the agency's bonus payments shall be based upon the results of the most recently completed assessment.

2. If the Administrative Hearing results in an increase to the agency's report card rating which warrants an increase in the amount of the bonus payment, the Department will pay to the agency the difference between the two amounts that accrued during the Administrative Hearing process.

(5) Issuance of a New Report Card and/or Rated License.

(a) If the results of any process established in paragraphs (3) and (4) above should require the issuance of a new report card, such report card shall be issued to the child care agency within thirty (30) business days of issuance of the written decision.

(b) If the results of any process indicated in paragraphs (3) and (4) above should require a change to the overall rating of the child care agency, a new license with the modified rating shall be issued to the child care agency within thirty (30) business days of issuance of the written decision.

(c) Immediately upon receipt of the new report card and/or rated license, the child care agency shall post the report card and/or rated license as directed by the Department.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 71-3-502(a)(2), 71-3-502(j).

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of Human Services on 09/15/2008, and is in compliance with the provisions of T.C.A. 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 05/29/08

Notice published in the Tennessee Administrative Register on: 06/13/08

Rulemaking Hearing(s) Conducted on: (add more dates. 07/16/08; 07/17/08; 07/18/08; 07/21/08; 07/22/08; 07/25/08

Date: 9/15/08

Signature: DKBeals

Name of Officer: Kim Beals

Title of Officer: Deputy General Counsel
Tennessee Department of Human Services

DEBRA E. BATTS
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY
My Commission Expires May 22, 2010

Subscribed and sworn to before me on: September 15, 2008

Notary Public Signature: Debra E. Batts

My commission expires on: May 22, 2010

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

RE Cooper Jr

Robert E. Cooper, Jr.
Attorney General

10-20-08

Date

Department of State Use Only

Filed with the Department of State on: 10/21/08

Effective on: 1/04/09

Riley C Darnell

Riley C. Darnell
Secretary of State

2008 OCT 21 PM 1:25

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

Chapter 1240-04-07
Report Cards and Rated Licensing for Child Care Agencies

Regulatory Flexibility Act Statement

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

These proposed rules would impact only licensed child care agencies. There are 3396 licensed child care agencies operating in the State of Tennessee.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

Compliance with these rule modifications imposes minimal additional administrative obligations and costs as compared to the current rules.

(3) A statement of the probable effect on impacted small businesses and consumers.

The requirements included in these proposed rules represent only minor modifications to the requirements of the current rules. Rather than imposing additional regulatory requirements, these modifications actually provide more options for achieving a better licensing assessment. Accordingly, these rules should impose no additional costs and have no negative impact on child care agencies.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

See answer to Number 3 above.

(5) A comparison of the proposed rule with any federal or state counterparts.

As of July 2007 13 other states utilize some type of rated licensing system. The Tennessee report card and rated licensing system is one of the best and most innovative quality rating and improvement systems in the nation.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Since these rules provide guidance and criteria for assessing the quality of care/ services provided by a licensed child care agency, which is the overall purpose of these rules, it is not feasible to exempt any child care agency from the requirements of these rules.