



Pennsylvania Association for the
Education of Young Children



Position Statement on House Bill 1746, Printer's Number 2304

Issued November 29, 2023

Position

Recognizing the paramount importance of health and safety standards and quality in child care and preschool programs, wherever children are served, the Pennsylvania Association for the Education of Young Children (PennAEYC) and Trying Together oppose House Bill 1746, PN 2304. To improve the bill, the bill should apply only to municipal recreation programs that operate less than 90 consecutive days per calendar year, for 2 hours or less per day, for 3 or fewer days per week for a single purpose for the children's attendance and that purpose is the only focus of the program. For example, basketball or art class. These are the same exclusions in the child care center regulations that apply to part-day school-age programs.

As amended, this legislation exempts municipal recreation programs serving preschoolers from meeting the requirements of a child care center, if the municipality has an ordinance or resolution that adopts the health and safety standards consistent with the minimum standards that are provided by the PA Recreation and Parks Society Protocol that was adopted on September 15, 2023. The PA Recreation and Park Society protocol for public preschool recreation programs does not include standards that would ensure the health and safety of preschoolers. The protocol states that public preschool municipal recreation programs can operate no more than 90 consecutive days for a maximum of three hours per day schedule. Directors, caregivers/teachers and other staff in these public preschool municipal recreation programs are not required to have any credentials related to early childhood education or child development.

The child care center regulations are the health and safety standards that are in place to protect children in these settings. Recognizing that preschool children have yet to reach certain developmental milestones and are different physically, cognitively, socially and emotionally from school-age children, their health and safety must be protected wherever they are served, whether part-day or full-day. The health and safety of children in early care and education settings is essential. Child care is anchored in respect for children's developmental needs and the importance of early brain development in young children. The relationship between the family and child should be supported by the caregivers/teachers. Directors, caregivers/teachers and other staff should be highly trained and require early childhood professional knowledge.

High-quality child care is critical during the early years of children's development. Preschool/child care programs that fall under the current definition of child care center should at minimum be regulated as such under existing Department of Human Services (DHS) regulations and be encouraged and receive the necessary supports to reach higher levels of Keystone STARS standards, regardless of their location. PennAEYC and Trying Together understand the value of relationships between early care and education and community stakeholders, which includes municipalities, in the growth and development of children; however, meeting minimum standards on child health and safety must be required for our preschoolers, if providing child care. Excluding municipal recreation programs that operate as suggested from the definition of child care center would further limit the time preschoolers are in an uncertified setting. Improving the bill to mirror the limitations in the child care center regulations for part-day school-age programs will best ensure the health and safety for preschoolers. This would include operating less than 90 consecutive days per calendar year, for 2

hours or less per day, for 3 or fewer days per week for a single purpose for the children's attendance and that purpose is the only focus of the program. For example, basketball or art class.

Bill Summary

House Bill 1746 amends the definition of "child care center" in the Human Services Code. The amendment specifically excludes a program operated by a municipality that has an ordinance or resolution that adopted the health and safety standards consistent with the minimum standards for municipal recreation programs for preschoolers that are provided by the PA Recreation and Parks Society Protocol adopted on September 15, 2023. This effectively removes any requirements related to health and safety required by a child care center in Title 55 Pa Code Chapter 3270 from applying to a municipal recreation program.

Background

Child care center regulations, Title 55 Pa Code Chapter 3270, define child care centers as any premises in which care is provided at any one time for seven or more children unrelated to the operator. Chapter 3270 applies to facilities in which out-of-home care is provided, at any one time, for part of a 24-hour day to seven or more children, 15 years of age or younger. It also includes the following:

- Care provided to a child at the parent's work site when the parent is not present in the child care space.
- Care provided in private or public, profit or nonprofit facilities.
- Care provided before or after the hours of instruction in nonpublic schools and in private nursery schools and kindergartens.

It does not apply to care:

- Provided by relatives.
- Furnished in places of worship during religious services.
- Provided in a facility where the parent is present at all times child care is being provided.
- Provided during the hours of instruction in nonpublic schools and in private nursery schools and kindergartens.

In addition, the child care center regulations statement of policy, § 3270.3a, states that the child care center regulations do not apply to a part-day school-age program for children who attend kindergarten or older but under 16 years of age in specific circumstances. Specifically, a part-day school-age program that operates for less than 90 consecutive days per calendar year from the date the program opens to the date the program closes, a part-day school-age program that operates 2 hours or less per day for 3 or fewer days per week, a part-day school-age program that has a single purpose for the children's attendance and that purpose is the only focus of the program, such as basketball or art class, tutoring programs licensed by or approved and funded by PDE and a drop-in program where the child may come and go at will, are exempt. This statement of policy was the result of programs for school-age children expanding in scope and direction to meet the needs of school-age children and their families. This statement of policy allows children who have completed kindergarten or older but under 16 years of age to participate in programs such as those administered by a municipality without oversight by any authority, which we support.

The child care regulations are in place to aid in protecting the health, safety and rights of children and to reduce risks to children in child care centers and are the minimum level of compliance necessary. By meeting these minimum health and safety regulations, child care centers are required to participate in Pennsylvania's Keystone STARS quality rating and improvement system and earn a STAR 1 rating. These performance standards provide the foundation for the program through quality standards that include staffing professional development, credential requirements, resources, assistance and support.

Health and safety standards have been under increased scrutiny following tragic events. Legislation has been recently enacted related to fire safety, staffing background checks and the environmental hazard of carbon monoxide, as well as introduced related to the environmental hazard of lead.

Recommendations and Rationale

PennAEYC and Trying Together understand the value of relationships between early care and education and community stakeholders, which includes municipalities, in the growth and development of children; however, protecting the health and safety of children and child care staff is paramount. Municipal recreation programs that provide care for preschool aged children should be required to meet the minimum health and safety standards for a child care center. Developmentally, preschool children have not reached certain milestones and are more vulnerable than school-age children, therefore keeping them safe and healthy where care is provided is critical. We recognize that municipal recreation programs are well-intended, however being excluded from the definition of child care center does not seek to ensure preschool children's health and safety. Families of preschool children will conclude that their local municipal programs are regulated by DHS and expect that minimum health and safety standards have been met and their children will be healthy and safe in their care.

Creating separate standards of care for our youngest children based on the entity running the program is a dangerous precedent to set. Regardless of care setting, our children that cannot yet speak well-enough to protect themselves must be protected through the child care regulations. [Caring for Our Children's National Health and Safety Performance Standards Guidelines for Early Care and Education Programs](#), 4th Edition, Section 10.2.0.1 notes that, every state should have a statute that identifies the licensing agency and mandates the licensing and regulation of all **full-time and part-time out-of-home care of children, regardless of setting**, except care provided by guardians and relatives. They further go on to note that these exclusions and gaps in coverage expose children to unacceptable risks. Caring for our Children is a joint collaborative project of the American Academy of Pediatrics, American Public Health Association and the National Resource Center for Health and Safety in Child Care and Early Education.

The PA Recreation and Park Society protocol for public preschool recreation programs, which was adopted on September 15, 2023, falls wildly short of ensuring the health and safety of preschoolers for a program that “runs less than 90 consecutive days on a maximum three hours per day schedule.” The amendment requires the municipality to pass an ordinance or resolution that is consistent with the minimum standards in the protocol, which does not allow municipal recreation programs to go beyond these minimum standards. If the PA Recreation and Park Society were to update their protocol, an update to the Human Services Code would be required. The protocol requirements for municipal recreation programs for preschoolers falls short in the areas related to facility persons, staff and child ratios, physical site/equipment, child health, transportation, to highlight a few. These are all items covered in the child care regulations to protect the health and safety of children. Detail follows in these areas:

- While the PA Recreation and Park Society protocol endorses the educational standards for their national certifications, public preschool recreation programs are only encouraged to seek, obtain and adhere to those standards, there is no requirement. The Certified Park and Recreation Professional certification only requires education and/or experience in the recreation, park resources, or leisure services field. There are no requirements for education or experience in early childhood care and education as part of the certification nor is this required of staff in addition to this certification.
- While the staff to child ratio of 1:8 must be maintained at all times, this may be problematic, when not all staffing and personnel are required positions, particularly when two staff members must supervise children when going to the lavatory.

- While it is positive to have a Certified Playground Safety Inspector inspect and certify all playgrounds and related apparatus used by preschools, Caring for Our Children’s National Health and Safety Performance Standards Guidelines for Early Care and Education Programs, Section 10.2.0.1 notes that these should be inspected at least once each year and whenever changes are made to the equipment.
- While the protocol requires the identification of unvaccinated child and appropriate advice to parents, Caring for Our Children’s National Health and Safety Performance Standards Guidelines for Early Care and Education Programs, Section 7.2.0.2 notes that a statement from the child’s primary care provider documenting the reason why the child is temporarily or permanently medically exempt from the immunization requirements should be on file.
- Related to transportation, the protocol does not address the competence and training of transportation staff, the qualification of drivers, etc. Caring for Our Children’s National Health and Safety Performance Standards Guidelines for Early Care and Education Programs, Section 6.5.1.1 notes that training by someone with appropriate knowledge and experience is needed to appropriately address emergencies, child care staff should be knowledgeable about the location and any emergency plans of the location and any driver who transports children for a child care program should be at least twenty-one years of age, to highlight a few.

Nationally, efforts by the National League of Cities with city officials, to work together to align efforts on behalf of young children to include strengthening connections within their communities and linking families to a broad range of supports and opportunities that help them thrive, have been supported by early care and education. Relationships between community stakeholders and early care and education is a core principle of Keystone STARS. The importance of health and safety, regardless of location, such as a municipal recreation program, cannot be understated. Limiting the exclusion of municipal recreation programs to those that “runs less than 90 consecutive days on a maximum three hours per day schedule” can be improved by mirroring the language excluding part-day school-age programs to further protect preschoolers.

By exempting *municipal recreation programs serving preschoolers, if the municipality has an ordinance or resolution that adopts the health and safety standards consistent with the minimum standards that are provided by the PA Recreation and Parks Society Protocol*, from following the requirements of a child care center, preschool children are placed at risk. Municipal recreation programs would not be required to meet any of the requirements related to facility persons, staff and child ratios, physical site, equipment, child health, transportation, etc., all regulations in place to protect the health and safety of children in child care centers. Minimum standards are necessary in all settings where children are receiving care to aid in protecting the health, safety and rights of children, and to reduce risks to children. Explicitly removing municipal recreation programs that adopts the health and safety standards from the definition of child care center, removes the requirements from applying to a setting where care is provided to young children and is contradictory to the General Assembly’s recent focus on health and safety standards. This bill may also place municipalities at risk of liability.

Families understand that a certified child care program is regulated and monitored by DHS and that health and safety measures to help protect their child from injury and illness through ratio and group size requirements, food preparation and serving requirements, staff training requirements, sanitation requirements, emergency preparedness plan requirements, background checks requirements of those that work or volunteer in the facility, etc. have occurred. Families may think that municipal recreation programs that are providing care to seven or more children for any part of the day are licensed and have met the minimum standards.

Fiscal Impact to Child Care Provider Community

As amended, there is no fiscal impact to the broader child care provider community. This bill would allow entities that are providing care at any one time to seven or more preschool children that “runs less than 90 consecutive days on a maximum three hours per day schedule” to not meet minimum health and safety requirements outlined in the child care center regulations.