

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 745 LICENSING
SUBCHAPTER D APPLICATION PROCESS
DIVISION 4 PUBLIC NOTICE AND HEARING REQUIREMENTS FOR
RESIDENTIAL CHILD-CARE OPERATIONS

§745.273. Which residential child-care operations must meet the public notice and hearing requirements?

(a) Except as specified in subsection (c) of this section, a general residential operation located in a county with a population of less than 300,000 must meet the public notice and hearing requirements when applying for a license.

(b) Except as specified in subsection (c) of this section, a general residential operation requesting to amend its permit must meet the public notice and hearing requirements if it is:

(1) An operation located in a county with a population of less than 300,000 requesting to increase capacity;

(2) An operation requesting to relocate permanently to a location in:

(A) a county with a population of less than 300,000 where the operation did not meet the public notice and hearing requirements with respect to its current location; or

(B) the same county with a population of less than 300,000 if the location is in a different community or is served by a different school district; or

(3) An operation located in a county with a population of less than 300,000 that does not currently provide treatment services to children with emotional disorders but is requesting to amend its permit to begin providing treatment services to children with emotional disorders.

(c) A general residential operation that applies to provide services under Chapter 748 of this title, Subchapter V (relating to Additional Requirements for Operations that Provide Trafficking Victim Services) is exempt from any public notice and hearing requirements in subsection (a) of this section, unless the general residential operation intends to provide or provides treatment services to children with emotional disorders.

(d) Notwithstanding the exemption provided in subsection (c) of this section, if the operation never provides or ceases to provide trafficking victim services, then the operation must meet the public notice and hearing requirements. To meet public notice and hearing requirements, the operation may need to surrender its permit or withdraw its application, as applicable, and reapply.

§745.275. What are the specific requirements for a public notice and hearing?

(a) The following chart lists the public notice, hearing requirements, and subsequent report you must complete:

Figure: 26 TAC §745.275(a)

Type of Requirements	Requirements to Be Completed
(1) Public Notice Requirements	<p>(A) The notice must include:</p> <ul style="list-style-type: none"> (i) Your name and address; (ii) The name and address of the child care operation, if already established, or the address where you propose to provide child care services; (iii) A description of the population to be served (except for the provision of trafficking victim services, if applicable), the services to be provided, and the number of children expected to be served; (iv) The date, time, and location of the public hearing; (v) A statement that a person may submit written comments or written information to Licensing concerning the application or the request to amend your permit instead of or in addition to appearing at the public hearing; and (vi) The name, address, and telephone number of the Licensing representative that will attend the public hearing; <p>(B) The required notice must be published either:</p> <ul style="list-style-type: none"> (i) After we accept your application or evaluate your request to amend your permit, as applicable; or (ii) For applications and requests to amend your permit relating to the provision of treatment services to children with emotional disorders, after we approve your completed General Residential Operations – Additional Operation Plan form and either accept your application or evaluate your request to amend your permit, as applicable. <p>(C) You must publish the notice about the public hearing at least 10 days before the date of the public hearing;</p> <p>(D) You must publish the notice in a newspaper of general circulation in the community where your child care services are or will be provided; and</p> <p>(E) You must provide a copy of the notice to the school</p>

Type of Requirements	Requirements to Be Completed
	<p>district superintendent, the governing body of the community, and the local law enforcement agency at least 10 work days before the hearing.</p>
(2) Public Hearing Requirements	<p>(A) You must hold the hearing in a location easily accessible to the community where the services are or will be provided;</p> <p>(B) You must schedule the hearing and open it for at least four hours during the normal business day (Monday - Friday) or early evening hours;</p> <p>(C) If you are applying for a permit, you must hold the hearing no later than one month after the date that we accept your application. If you are requesting to amend your permit, you must hold the hearing after we have evaluated your request;</p> <p>(D) You must notify us of the time, date, and location of the hearing at least 10 days before the hearing; and</p> <p>(E) You must facilitate the hearing.</p>
(3) Verbatim Record and Report of Public Comment from the Community	<p>Within 10 work days of the hearing, you must submit to us:</p> <p>(A) The verbatim record of the testimony given at the public hearing; and</p> <p>(B) A completed summary Report of Public Comment from the Community form that we furnish you that includes the following documentation:</p> <ul style="list-style-type: none"> (i) A copy of the newspaper notice, the date the notice was published, and the name of the newspaper in which the notice appeared; (ii) Proof that you gave the school district superintendent, local law enforcement, and the governing body of the community an opportunity to comment on the application or the request to amend your permit; (iii) Your responses to any negative comments; (iv) The amount of local resources available to support children you propose to serve, including physical and mental health services, educational services, law enforcement, and other services; (v) The impact of the proposed services on the ratio in

Type of Requirements	Requirements to Be Completed
	<p>the local school district of students enrolled in a special education program to students enrolled in a regular education program and the effect, if any, on the children you propose to serve, including the estimated impact on the current ratio in the school in relation to the average ratio statewide, and the ratio in terms of the probability of adverse impact on children in care;</p> <p>(vi) The impact of the proposed services on the community and the effect on opportunities for social interaction for the children proposed to be served, including social and youth groups, spiritual and religious organizations, and youth employment groups or agencies; and</p> <p>(vii) Any other documentation available to support the position of the report.</p>

(b) During an active declaration of a state of disaster under Texas Government Code, Chapter 418, public hearings concerning an operation located in an area subject to the declaration of disaster may be held in a manner that allows remote participation.

§745.277. What will happen if I fail to comply with the public notice and hearing requirements?

If you fail to comply with any one of the public notice and hearing requirements that are set forth under §745.273 of this division (relating to Which residential child-care operations must meet the public notice and hearing requirements?) and §745.275 of this division (relating to What are the specific requirements for a public notice and hearing?), we may do the following:

- (1) Deny you a permit;
- (2) Deny you an amendment to your permit that would allow you to increase capacity;
- (3) Deny you an amendment to your permit that would allow you to operate at the new location; or
- (4) Deny you an amendment to your permit that would allow you to provide treatment services to children with emotional disorders.

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 DIVISION 10 RELOCATION OF OPERATION

§745.435. What must I do if I relocate my operation after I receive my license or certification?

(a) If you are going to relocate your operation permanently to a new location, you must notify us as early as possible before the move and meet the notification requirements in the following table.

Figure: 26 TAC §745.435(a)

Operation Type or Types	Notify Licensing No Later Than
(1) Licensed Child-Care Home.	15 days prior to the move.
(2) School-Age Program, Before or After-School Program, Child-Care Center, General Residential Operation, Child-Placing Agency.	30 days prior to the move.

(b) If you fail to notify us before you relocate, we may deny you an amendment to your permit that would allow you to operate at the new location.

(c) You must notify us of the address of your new location by completing a form that we provide you. After we inspect your new location, we will amend your permit to reflect the new address if:

(1) The new location complies with the minimum standards; and

(2) You meet the requirements in Division 4 of this subchapter (relating to Public Notice and Hearing Requirements for Residential Child-Care Operations), if applicable.

(d) If we amend your permit to reflect a new address as described in subsection (c) of this section:

(1) The issuance date and permit number that is on your original permit will remain in effect; and

(2) There is no additional fee for your change in location.

(e) For temporary re-location of a residential child-care facility during a declared disaster, see §748.303(e)(3) of this title (relating to When must I report and document a serious incident?) and §749.503(e)(3) of this title (relating to When must I report and document a serious incident?).