

**§745.31. What operations are subject to regulation under this chapter and corresponding minimum standards?**

(a) Child day care and residential child care are subject to regulation under this chapter and corresponding minimum standards, unless Child Care Regulation (CCR) determines the operation is exempt from regulation.

(b) Residential child-care operations include:

(1) Child-placing agencies that verify foster homes and approve adoptive homes; and

(2) General residential operations, which CCR may also certify as a psychiatric residential youth treatment facility (PRYTF) as defined at §745.9051 of this chapter (relating to What do the following words and terms mean when used in this subchapter?).

(c) For a PRYTF, CCR regulates the operation's care of young adults 18 to 21 years of age in addition to child care.

**§745.37. What specific types of operations are subject to regulation under this chapter and corresponding minimum standards?**

The charts in paragraphs (1) and (2) of this section list the types of operations for child day care and residential child care that are subject to regulation under this chapter and corresponding minimum standards.

(1) Types of Child Day-Care Operations:

Figure: 26 TAC §745.37(1)

Types of Child Day-Care Operations	Description of Operation	Type of Permit
(A) Listed Family Home	A caregiver at least 18 years old that provides care in the caregiver's own home for compensation, for three or fewer children unrelated to the caregiver, birth through 13 years, for at least:	Listing (A caregiver who is subject to regulation as a listed family home may instead become a registered family home.)

<b>Types of Child Day-Care Operations</b>	<b>Description of Operation</b>	<b>Type of Permit</b>
	<p>(i) four hours a day, three or more days a week, for three or more consecutive weeks; or</p> <p>(ii) four hours a day for 40 or more days in a period of 12 months.</p> <p>The total number of children in care, including children related to the caregiver, may not exceed 12.</p>	
(B) Registered Child-Care Home	<p>The primary caregiver provides regular care in the primary caregiver's own home for up to six unrelated children from birth through 13 years and may provide care after school hours for not more than six additional elementary school children, for at least:</p> <p>(i) four hours a day, three or more days a week, for three or more consecutive weeks; or</p> <p>(ii) four hours a day for 40 or more days in a period of 12 months.</p> <p>The total number of children in care at any given time, including the children related to the caregiver, must not exceed 12.</p>	Registration
(C) Licensed Child-Care Home	<p>The primary caregiver provides care in the primary caregiver's own home for seven to twelve children from birth through 13 years, for less than 24 hours a day, but at least two hours a day, three or more days a week.</p> <p>The total number of children in care varies with the ages of the children, but the total number of children in care at any given time, including the children related to the caregiver,</p>	License

<b>Types of Child Day-Care Operations</b>	<b>Description of Operation</b>	<b>Type of Permit</b>
	must not exceed 12.	
(D) <b>Licensed</b> Child-Care Center	An operation providing care at a location other than <b>the home of the director, owner, or operator</b> , for seven or more children under 14 years of age, for less than 24 hours a day, but at least two hours a day, three or more days a week.	License
(E) Before or After-School Program	An operation that provides care to <b>children who attend pre-kindergarten through grade six</b> for at least two hours a day, <b>three or more</b> days a week.  <b>A program may operate before, after, or before and after the customary school day and during school holidays.</b>	License
(F) School-Age Program	An operation that provides supervision and recreation, skills instruction, or skills training to <b>children who attend pre-kindergarten through grade six</b> for at least two hours a day, <b>three or more</b> days a week.  <b>A program may operate before, after, or before and after the customary school day and during school holidays, the summer period, or any other time when school is not in session.</b>	License
(G) Employer-Based Child Care	A small employer providing care for up to 12 of the employees' children that are under 14 years of age, for less than 24 hours a day. The care is located on the employer's premises and in the same building where the parents work.	<b>Compliance Certificate</b>
(H) Shelter Care	A child-care program at a temporary shelter, such as a family violence or homeless shelter, providing care for seven or more children under 14	<b>Compliance Certificate</b>

<b>Types of Child Day-Care Operations</b>	<b>Description of Operation</b>	<b>Type of Permit</b>
	years of age while the resident parent is away from the shelter. The child-care program operates for at least four hours a day three or more days a week.	

(2) Types of Residential Child-Care Operations:

Figure: 26 TAC §745.37(2)

<b>Types of Residential Child-Care Operations</b>	<b>Description</b>	<b>Type of Permit</b>
(A) General Residential Operation	<p>An operation that provides care for seven or more children up to the age of 18 years. The care must include child-care services and may also include programmatic services or treatment services.</p> <p>Residential treatment centers are a type of general residential operation.</p> <p>After obtaining a license for a general residential operation, an operation may apply for a certificate for a psychiatric residential youth treatment facility (PRYTF) as defined at §745.9051 of this chapter (relating to What do the following words and terms mean when used in this subchapter?). A PRYTF may provide psychiatric health treatments and services</p>	License

<b>Types of Residential Child-Care Operations</b>	<b>Description</b>	<b>Type of Permit</b>
	to individuals 21 years of age and younger.	
<b>(B)</b> Child-Placing Agency (CPA)	A person, agency, or organization, other than a parent, who places or plans for the placement of a child in an adoptive home, foster home, or other residential care setting.	License
<b>(C)</b> Foster Home (also known as a "foster family home" or an "agency foster home")	An operation that a CPA verifies and regulates, is the primary residence of the foster parents, and provides care for six or fewer children, up to the age of 18 years.	Verification that a CPA issues.

Note: All the rules in Chapter 745, Subchapter O are new, so all the rules below are highlighted.

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DIVISION 1 DEFINITIONS

**§745.9051. What do the following terms mean when used in this subchapter?**

The following terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise:

(1) Individual--A person who is 21 years of age or younger.

(2) Psychiatric health treatments and services--In addition to basic child-care services, a specialized type of child-care services provided by a certified psychiatric residential youth treatment facility to treat and support individuals who have a severe emotional disturbance.

(3) Psychiatric Residential Youth Treatment Facility (PYRTF)--As defined at Texas Health and Safety Code §577A.001(3), a private facility that provides psychiatric health treatments and services in a residential, non-hospital setting exclusively to individuals and is licensed as a general residential operation.

(4) Severe emotional disturbance--As defined at Texas Health and Safety Code §577A.001(4), a mental, behavioral, or emotional disturbance of sufficient duration to result in functional impairment that substantially interferes with or limits an individual's role or ability to function in family, school, or community activities.

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DIVISION 2	APPLICATION PROCESS

**§745.9053. What requirements must a general residential operation meet before applying for a psychiatric residential youth treatment facility (PRYTF) certificate?**

(a) Before applying for a PRYTF certificate a general residential operation must:

(1) Have a current initial or full license as a general residential operation;

(2) Have Child Care Regulation's approval to provide treatment services to children with an emotional disorder, as provided in §748.63 of this title (relating to Can I provide each type of service that Licensing regulates?); and

(3) Be accredited by:

(A) The Joint Commission;

(B) The Commission on Accreditation of Rehabilitation Facilities;

(C) The Council on Accreditation; or

(D) Another accreditation organization whose standards relate to the care of children and young adults receiving mental health services in a residential setting and is approved by Child Care Regulation.

(b) To meet the accreditation requirement under subsection (a)(3) of this section, a general residential operation:

(1) May obtain accreditation for:

(A) The entire general residential operation, including the PRYTF; or

(B) Only the part of the general residential operation where the PRYTF will operate; and

(2) May have an initial, provisional, full, or other type of accreditation that is appropriate to the accreditation organization.

**§745.9055. What does a completed application for a psychiatric residential youth treatment facility (PRYTF) certificate include?**

(a) A general residential operation (GRO) must submit:

(1) A PRYTF certificate application (Form 2973, Psychiatric Residential Youth Treatment Facility Application);

(2) A General Residential Operations – Additional Operation Plan (Form 2960, Application for a License to Operate a Residential Child Care Facility, Attachment C) that describes and includes the capacity of the children to be served by the GRO, including any children and young adults that the PRYTF will serve and as required by Texas Human Resources Code §42.252;

(3) An updated floor plan of the building and surrounding space the entire operation will use, including dimensions of the indoor space and the specific areas to be used by the PRYTF;

(4) Additional written policies required in §748.4821 of this title (relating to What additional policies must a general residential operation (GRO) submit as part of the application process for a psychiatric residential youth treatment facility (PRYTF) certificate?); and

(5) The PRYTF certificate application fee.

(b) The GRO may submit an updated General Residential Operations – Additional Operation Plan (Form 2960, Attachment C) if the GRO is already licensed to provide treatment services to children with emotional disorders.

**§745.9057. How do the public notice and hearing requirements apply to an application for a psychiatric residential youth treatment facility (PRYTF) certificate?**

(a) A general residential operation (GRO) that is applying for a PRYTF certificate must comply with the rules in Subchapter D, Division 4 of this chapter (relating to Public Notice and Hearing Requirements for Residential Child-Care Operations) if the addition of the PRYTF causes the GRO to meet one of the exceptions in §745.273(b) of this chapter (relating to Which residential child care operations must meet the public notice and hearing requirements?).

(b) The initial public notice and hearing, or a subsequent public notice and hearing, of the GRO must describe and include the capacity of the children and young adults the PRYTF will serve.

(c) If the GRO does not comply with the public notice and hearing requirements, Child Care Regulation may deny the operation a PRYTF certificate.

**§745.9059. How long does Child Care Regulation (CCR) have to review an application for a psychiatric residential youth treatment facility (PRYTF) certificate?**

(a) CCR has 21 calendar days after receiving a general residential operation's



(GRO's) application for a PRYTF certificate to review the paperwork, unless there is good cause to exceed this timeframe.

(b) After CCR reviews the GRO's application, CCR will notify the GRO in writing that:

(1) There is good cause to delay the timeframe for making a determination on the application, consistent with §745.327 of this chapter (relating to When does Licensing have good cause for exceeding its timeframes for processing my application?);

(2) The GRO is ineligible to receive a PRYTF certificate because it does not meet one or more of the requirements under §745.9053(a) of this division (relating to What requirements must a general residential operation meet before applying for a psychiatric residential youth treatment facility (PRYTF) certificate?);

(3) The GRO's application is complete and accepted for processing; or

(4) The GRO's application is incomplete. The notification letter will:

(A) Identify any application materials submitted that do not show compliance with relevant statutes, rules, or minimum standards; and

(B) Explain what the GRO must do to complete the application.

(c) If the GRO's application is not complete by the first anniversary of the date the GRO submitted its application for a PRYTF certificate, CCR will close the application and the GRO must submit a new application, materials, and a PRYTF certificate application fee.

**§745.9061. How long does Child Care Regulation (CCR) have to determine whether to issue a psychiatric residential youth treatment facility (PRYTF) certificate after accepting the application?**

(a) CCR determines whether to issue a PRYTF certificate no later than two months after CCR accepts the application, unless there is good cause to exceed this timeframe consistent with §745.327 of this chapter (relating to When does Licensing have good cause for exceeding its timeframes for processing my application?).

(b) The general residential operation may file a complaint regarding timeframes according to §745.325 of this chapter (relating to How do I file a complaint regarding timeframes for processing my application?).

**§745.9063. What factors will Child Care Regulation (CCR) consider when evaluating an application for a psychiatric residential youth treatment facility (PRYTF) certificate?**

CCR determines whether to issue a PRYTF certificate by considering:

(1) The application and any information submitted with the application, including any information noted in Texas Human Resources Code §42.252(f);

(2) The on-site inspection to determine compliance with relevant statutes, rules, and minimum standards;

(3) Any information that CCR gathers through the application process, including any written comments and written information submitted to CCR during the process that CCR considers to be relevant to the decision to issue the PRYTF certificate; and

(4) If a public hearing is required by the GRO under §745.273(b) of this chapter (relating to Which residential child-care operations must meet the public notice and hearing requirements?) any requirements under Texas Human Resources Code §42.0461, including the Verbatim Record and summary Report of Public Comment from the Community, as required in §745.275 of this chapter (relating to What are the specific requirements for a public notice and hearing?).

**§745.9065. For what reason may Child Care Regulation (CCR) deny a psychiatric residential youth treatment facility (PRYTF) certificate based on the results of a required public hearing?**

If a public hearing is required in §745.273 of this chapter (relating to Which residential child-care operations must meet the public notice and hearing requirements?), CCR may deny the general residential operation's request for a PRYTF certificate for a reason described in Texas Human Resources Code §42.0461(e).

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DIVISION 3	CERTIFICATE RENEWALS

**§745.9067. When does a psychiatric residential youth treatment facility (PRYTF) need to apply to renew the PRYTF certificate?**

(a) A PRYTF must apply to renew the PRYTF certificate every two years after the date Child Care Regulation (CCR) issues the certificate.

(b) A PRYTF must timely apply to renew the PRYTF certificate, even if:

(1) There is a pending civil or administrative penalty against the PRYTF; or

(2) The general residential operation or PRYTF is under an enforcement action.

(c) During the year that the PRYTF renews the PRYTF certificate, the renewal period:

(1) Begins 60 calendar days before the anniversary of when CCR issued the PRYTF certificate; and

(2) Ends on the date of the anniversary.

(d) If the PRYTF is late in applying for renewal of the PRYTF certificate, the PRYTF has 30 additional calendar days after the renewal period to apply for renewal.

**§745.9069. What does a completed renewal application for a psychiatric residential youth treatment facility (PRYTF) certificate include?**

A PRYTF must submit a completed PRYTF renewal application, which includes:

(1) Timely submitting the renewal application as required by §745.9067 of this division (relating to When does a psychiatric residential youth treatment facility (PRYTF) need to apply to renew the PRYTF certificate?);

(2) Verification that the following information is current and accurate:

(A) The list of controlling persons at the operation; and

(B) The list of governing body's members, such as officers and owners, if applicable;

(3) A statement as to whether the operation continues to need any existing waivers and variances that the PRYTF will also want to apply to the care of children and young adults receiving psychiatric health treatments and services;

(4) Validation on the provider website the list of persons who require a background check because of their association with the operation;

(5) Verification of the ongoing accreditation of the PRYTF; and

(6) A PRYTF certificate renewal fee.

**§745.9071. What happens after Child Care Regulation (CCR) receives a psychiatric residential youth treatment facility (PRYTF) renewal application?**

(a) After receiving a PRYTF renewal application, CCR evaluates whether:

(1) The PRYTF completed the renewal application as required by §745.9069 of this division (relating to What does a completed renewal application for a psychiatric residential youth treatment facility (PRYTF) certificate include?);

(2) The general residential operation license is current and approved to provide treatment services to children with emotional disorders;

(3) The PRYTF has paid each administrative penalty that the PRYTF owes after waiving or exhausting any due process provided under Texas Health and Safety Code §571.025; and

(4) The PRYTF meets the statutory, rule, and minimum standard requirements after CCR inspects the PRYTF.

(b) Within 30 calendar days of receiving the renewal application, CCR will send written notice that:

(1) CCR has renewed the PRYTF certificate;

(2) The PRYTF renewal application is incomplete because it did not meet one or more of the renewal application requirements in subsection (a) of this section; or

(3) CCR refuses to renew the PRYTF certificate because:

(A) The PRYTF did not submit a completed PRYTF renewal application;

(B) The PRYTF is no longer accredited as required by §748.4823(a) of this title (relating to When must a psychiatric residential youth treatment facility (PRYTF) notify Child Care Regulation (CCR) about accreditation changes regarding the PRYTF?);

(C) The general residential operation does not have a license;

(D) The general residential operation is not approved to provide treatment services to children with emotional disorders;

(E) The PRYTF did not pay the PRYTF certificate renewal fee;

(F) The PRYTF did not pay an administrative penalty that the PRYTF owes after waiving or exhausting any due process provided under Texas Health and Safety Code §571.025; or

(G) After inspecting the PRYTF, CCR determined that it does not meet the statute, rule, and minimum standard requirements.

(c) If the PRYTF renewal application is incomplete, the written notice will include:

(1) CCR's determination that the PRYTF did not meet one or more of the renewal application requirements in subsection (a) of this section; and

(2) A list of the requirements that the PRYTF must complete before CCR can renew the PRYTF certificate.

(d) If the PRYTF submitted an incomplete renewal application during the renewal period, the PRYTF may attempt to submit the missing information until the PRYTF certificate expires.

(e) If the PRYTF submitted an incomplete renewal application during the late renewal period, the PRYTF has 15 calendar days to submit a completed application from the date CCR determined that the renewal application was incomplete.

### **§745.9073. When does a psychiatric residential youth treatment facility (PRYTF) certificate expire?**

(a) A PRYTF certificate expires if:

(1) The PRYTF does not submit a renewal application during the renewal period or late renewal period;

(2) The PRYTF submits a renewal application during the renewal period, the PRYTF was notified that the application was incomplete, and the PRYTF did not submit a completed renewal application before the end of the late renewal period; or

(3) The PRYTF submits a renewal application during the late renewal period, the PRYTF was notified that the application was incomplete, and the PRYTF did not submit a completed renewal application within 15 calendar days after notification.

(b) If the PRYTF certificate expires:

(1) Within 24 hours, the general residential operation (GRO) must inform the following persons that the PRYTF certificate has expired;

(A) All parents of children receiving psychiatric health treatments and services; and

(B) Young adults and any guardians of the young adults receiving psychiatric health treatments and services;

(2) The GRO must immediately:

(A) Discharge and stop providing care to the young adults 18 to 21 years of age receiving psychiatric health treatments and services unless the young adult meets the requirements of §748.1931 of this title (relating to After a child in my care turns 18 years old, may the person remain in my care?);

(B) For children receiving psychiatric health treatments and services:

(i) Enroll the child into the general residential operation, if appropriate; or

(ii) Discharge the child to the child's parents.

(3) Before the GRO that had the PRYTF certificate can operate again as a PRYTF, the PRYTF must submit a new PRYTF application, materials, and PRYTF certificate application fee.

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 DIVISION 4 FEES

**§745.9075. What fees must a general residential operation (GRO) pay to apply for and maintain its psychiatric residential youth treatment facility (PRYTF) certificate?**

In addition to the fees required by §745.509 of this chapter (relating to What fees must I pay to apply for and maintain a license for an operation?), the following chart contains non-refundable fees applicable to a PRYTF, when the fees are due, and the consequences for failure to pay on time:

Figure: 26 TAC §745.9075

Type and Amount of Fee	When the Fee is Due	Consequences for Failure to Pay a Fee on Time
(1) PRYTF Certificate Application Fee: \$890	Before Child Care Regulation (CCR) accepts the application.	CCR will return the application as incomplete.
(2) PRYTF Certificate Renewal Fee: \$740	On the biennial anniversary of the date CCR issued the certificate.	CCR will not renew the certificate.

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DIVISION 5	INSPECTIONS, INVESTIGATIONS, AND CONFIDENTIALITY

**§745.9077. How do the provisions in Subchapter K of this chapter apply to a psychiatric residential youth treatment facility (PRYTF)?**

The rules in Subchapter K of this chapter (relating to Inspections, Investigations, and Confidentiality) apply to a PRYTF certificate in the same manner as the rules would apply for a general residential operation permit, including:

(1) For an inspection or investigation in a PRYTF;

(2) Relating to confidentiality, which apply to an applicant for a PRYTF certificate, holder of a PRYTF certificate, or former holder of a PRYTF certificate as if a PRYTF certificate is a permit; and

(3) Technical assistance provided to a PRYTF.



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DIVISION 6	ENFORCEMENT

**§745.9085. Overview of Enforcement Actions.**

(a) The Texas Health and Human Services Commission may impose the following enforcement actions against a psychiatric residential youth treatment facility (PRYTF):

(1) A denial of a PRYTF certificate;

(2) A refusal to renew a PRYTF certificate;

(3) An administrative penalty under Texas Health and Safety Code §571.025; and

(4) A civil penalty under Texas Health and Safety Code §571.023.

(b) An enforcement action taken against a PRYTF certificate is separate from an action taken against a general residential operation license.

**§745.9087. Denial of certificate.**

The Texas Health and Human Services Commission (HHSC) may deny a psychiatric residential youth treatment facility (PRYTF) certificate if HHSC determines ineligibility based on:

(1) A provision in Texas Health and Safety Code Chapter 577A; or

(2) HHSC's evaluation of the application under the criteria described in §745.9063 of this subchapter (relating to What factors will Child Care Regulation (CCR) consider when evaluating an application for a psychiatric residential youth treatment facility (PRYTF) certificate?).

**§745.9089. Refusal To Renew.**

The Texas Health and Human Services Commission (HHSC) may refuse to renew a psychiatric residential youth treatment facility (PRYTF) certificate for a reason listed in §745.8605 of this chapter (relating to When can Licensing recommend or impose an enforcement action against my operation?) or if:

(1) The PRYTF did not submit a complete renewal application, timely or otherwise, according to §745.9069 of this subchapter (relating to What does a completed renewal application for a psychiatric residential youth treatment facility (PRYTF) certificate include?);

(2) The PRYTF was not accredited at the time of the renewal;

(3) The general residential operation (GRO) does not have a current license to operate at the time of the renewal, including if:

(A) HHSC revokes the GRO's license;

(B) HHSC refuses to renew the GRO's license;

(C) The GRO voluntarily closes;

(D) HHSC suspends the GRO's license; or

(E) The GRO voluntarily suspends their license;

(4) The GRO is not approved to provide treatment services to children with an emotional disorder at the time of renewal;

(5) The PRYTF has not paid an administrative penalty after waiving or exhausting any due process provided under Texas Health and Safety Code §571.025;

(6) The PRYTF has not timely submitted the renewal fee to HHSC; or

(7) The PRYTF does not meet:

(A) A provision in Texas Health and Safety Code Chapter 577A;

(B) A rule in this subchapter; or

(C) A minimum standard in Chapter 748, Subchapter W of this title (relating to Additional Requirements for Operations that Provide Psychiatric Health Treatments and Services).

#### **§745.9091. Administrative Review.**

(a) An administrative review is an informal review to determine whether a decision or action was appropriate under applicable laws and rules. An administrative review is not a formal hearing.

(b) An administrative review may be requested to dispute the following in relation to a psychiatric residential youth treatment facility (PRYTF) certificate:

(1) The denial of a PRYTF certificate;

(2) The refusal to renew a PRYTF certificate; or

(3) The citation of a deficiency of a statute, rule, or minimum standard.

(c) An administrative review must be requested in accordance with Subchapter M of this chapter (relating to Administrative Reviews and Due Process Hearings).

(d) The administrative review process and all administrative review requirements will be conducted in accordance with Subchapter M of this chapter.

**§745.9093. Administrative Penalties.**

(a) The Texas Health and Human Services Commission (HHSC) may impose and collect an administrative penalty against a psychiatric residential youth treatment facility (PRYTF) for a violation of:

(1) A provision in Texas Health and Safety Code Chapter 577A;

(2) A rule in this subchapter; or

(3) A minimum standard in Chapter 748, Subchapter W of this title (relating to Additional Requirements for Operations that Provide Psychiatric Health Treatments and Services).

(b) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) HHSC imposes an administrative penalty based on the number of individuals under the care of the PRYTF when the violation occurred:

Figure: 26 TAC §745.9093(c)

<b>Number of individuals in a PRYTF</b>	<b>Maximum amount of penalty</b>
20 or less	\$100
21-40	\$150
41-60	\$200
61-80	\$250
81-100	\$375
More than 100	\$500

**§745.9095. Civil Penalties.**

The Texas Health and Human Services Commission (HHSC) may impose a civil penalty against a psychiatric residential youth treatment facility (PRYTF) according to Texas Health and Safety Code §571.023 for a violation of:

(1) A provision in Texas Health and Safety Code Chapter 577A; or

(2) A rule adopted under Texas Health and Safety Code Chapter 577A, including:

(A) A rule in this subchapter; or

(B) A minimum standard in Chapter 748, Subchapter W of this title (relating to Additional Requirements for Operations that Provide Psychiatric Health Treatments and Services).

### **§745.9097. State Office of Administrative Hearings (SOAH).**

A psychiatric residential youth treatment facility (PRYTF) has the right to a due process hearing before the SOAH in accordance with Subchapter M of this chapter (relating to Administrative Reviews and Due Process Hearings) for:

(1) The denial of a PRYTF certificate;

(2) The refusal to renew a PRYTF certificate; or

(3) The imposition of an administrative penalty.