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**Child Care Regulation's Overview of Rule
Changes to be
Effective August 23, 2023**

**Replacing and Updating Rules from TAC Title 40,
Chapter 745, Subchapter K with Rules in
TAC Title 26, Chapter 745, Subchapters B, I, and K**



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Background Purpose and Information

- Summary of Changes Relating to New Title 26, Chapter 745:
 - Subchapter B: Child Care and Other Operations that We Regulate
 - Subchapter I: Non-Enforcement of Voluntary Actions, and
 - Subchapter K: Inspections, Investigations, and Confidentiality
- Effective Date of Rules
- Contact Information



Background Information

House Bill 5, 85th Legislative Session 2017

Transition to Stand-Alone Agency: H.B. 5 directed the Department of Family and Protective Services (DFPS) to become a separate agency, distinct from the Health and Human Services Commission (HHSC) and the broader health and human services system.

Child Care Regulation Transfer: An essential change was the transfer of Child Care Regulation (CCR) from DFPS to HHSC, except for the investigation of allegations of child abuse, neglect, and exploitation, which remained under DFPS's purview.



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Purpose

Texas Administrative Code (TAC) 26

- Move the Last CCR Rules from TAC Title 40 to TAC Title 26
- Remove DFPS Child Care Investigations Content from CCR Rules
- Updated to Reflect Current Practices
- Enhanced Clarity and Readability



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Subchapter B – New §745.43

NEW §745.43 clarifies that these requirements only apply to a relative-only listed family home because the content for unrelated listed family homes is in the new minimum standards for listed family homes that took effect on March 10, 2021.

§745.43. What are the requirements for a relative-only listed family home?

The permit holder for a relative-only listed family home must:

- (1) Operate within the limits of its permit;
- (2) Ensure there is no immediate risk to the health or safety of a child while in care;
- (3) Ensure any medication given to a child in care is administered according to Texas Human Resources Code §42.065;
- (4) Request background checks as required in Subchapter F of this chapter (relating to Background Checks);
- (5) Ensure that each child is free from abuse, neglect, and exploitation while in care;
- (6) Pay all required fees as outlined in Subchapter E of this chapter (relating to Fees); and
- (7) Comply with all other applicable laws and rules.



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Subchapter I (NEW): Non-Enforcement Voluntary Actions Part I

Substantive Changes By Type of Action

Temporary relocations

- Add new address to permit after 90 days
 - §745.5001(b)(2)
- Notice to CCR within 24 hours of relocation
 - §745.5051(2)(A)(i) and §745.5101(1)
- Factors for CCR to consider to approve relocations
 - §745.5103(b)

Voluntary suspensions

- Maximum length of suspension is two years
 - § 745.5001(b)(3)(B)
- Additional reasons to request a voluntary suspension
 - § 745.5151
- Factors for CCR to consider to approve suspension
 - § 745.5155
- Time frame to notify parents of a voluntary suspension
 - § 745.5157(a)
- Extension may be granted
 - § 745.5161(1)



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Subchapter I (NEW): Non-Enforcement Voluntary Actions Part II

Withdrawal of Application

- Notice to CCR before issuance/denial of application
 - §745.5051(1)(A)

Voluntary Closures

- Notify parents timely whether voluntary closure is due to an emergency or not.
 - §745.5201(a)
- Surrender the operations permit
 - §745.5201(b)(2)
- RCC operation must meet the reporting and documentation requirements for emergency closure
 - §745.5201(c)



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Subchapter K: Inspections, Investigations, & Confidentiality

Substantive Changes Related to Inspections and Investigations:

- **Availability During Office Hours: §745.8405(c)**
- **Introducing "Interfere" Term: §745.8411(a)**
- **Inclusion of Audio and Visual Records: § 745.8413(a)(1)**
- **Protocol Clarification for Initial Notification of Inspection/Investigation: §745.8441**
- **Update Who and How CCR Notifies of Inspection/Investigation Outcomes: §745.8443**
- **Timeframes for Correcting Deficiencies and When CCR Will Approve Extensions: §745.8447**
- **Updates Related to Current Practices Related to DFPS Investigations: §745.8401 and §745.8449**



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Subchapter K, Division 3: Confidentiality, Part I

- **Evolution in Confidentiality:** New rules clarify what constitutes a child care record and which portions are confidential. Notably, the concept of a "monitoring file" has been eliminated.
- **Substantial Similarity:** Actual requirements are not drastically different from current practices. The focus is still on safeguarding confidential information.
- **Authorized Use of Confidential Information:** §745.8489(d), §745.8491(b), and §745.8493(d) have been updated to emphasize that confidential information may only be used for the purpose or duty that authorized its release.
- Confidential information must not be disclosed to unauthorized individuals or entities.



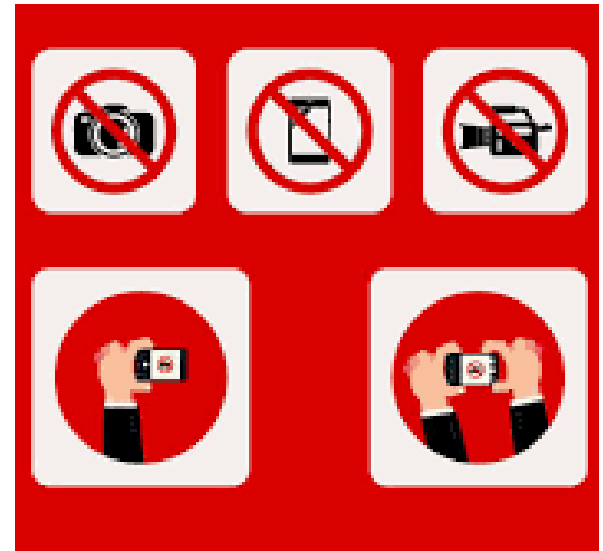


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Subchapter K, Division 3: Confidentiality, Part II

NEW §745.8485 Can an operation record the inspection or investigation process?

- Prohibits an operation or individual from recording, listening to, or eavesdropping on:
 - CCR confidential interviews with various individuals, including operation staff, foster parents, caregivers, children, and others; and
 - Internal discussions among HHSC staff.





Additional Guidance Regarding §745.8485

This rule does not prohibit an operation or person from recording activities such as:

- Walk-throughs;
- Exit interviews/exit conferences;
- CCR's observation of operation activities;
- Conversations with operation staff or children that are not confidential;
- A person recording his or her own interview with CCR staff, even if that interview will be confidential.

When CCR staff need to conduct confidential interviews or have confidential, internal conversations with HHSC staff without being recorded, CCR staff and operations must work together to identify a space where CCR conduct these activities that minimizes the impact on the operation's provision of child care.

Subchapter K, Division 4: Technical Assistance

- Language refined for improved understanding
- Updated Citations: Citations have been updated to match the latest references.
- §745.8581 clarifies TA is not a deficiency or enforcement action and does not affect HHSC's ability to cite a deficiency or take an enforcement action
- §745.8583 outlines when and how CCR can offer TA
- §745.8585 clarifies that an operation may not request an administrative review for TA



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Effective Date of Rules

Operations must comply all the updated and new rules in Subchapter B, I, and K beginning with the following rules beginning **August 23, 2023**.

The following is a list of the weighted rules:

- §745.43 (Applicable only to Relative Listed Family Homes)
- §745.5101 (Temporary relocation)
- §745.5157 (Responsibilities during a voluntary suspension period)
- §745.5159 (Reopening after a voluntary suspension period)
- §745.5201 (Voluntarily closing an operation)
- §745.8405(c) (Child-Placing Agency Office Hours)
- §745.8411 and §745.8413 (Operation responsibilities during CCR or DFPS inspections and investigations)
- §745.8447 (Correcting deficiencies)
- §745.8485 (Not recording, listening, or eavesdropping on confidential HHSC interviews or internal conversations)
- §§745.8489(d), 745.8489(b), and 745.8493(d) (Not releasing confidential information)



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Contacts

Email Child Care Regulation

- Day Care Operations:
CCRQuestions@hhs.texas.gov
- 24-Hour Residential Operations:
rccrstan@hhs.texas.gov



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