

TITLE 26 HEALTH AND HUMAN SERVICES  
PART 1 HEALTH AND HUMAN SERVICES COMMISSION  
CHAPTER 748 MINIMUM STANDARDS FOR GENERAL RESIDENTIAL  
OPERATIONS  
SUBCHAPTER C ORGANIZATION AND ADMINISTRATION  
DIVISION 1 REQUIRED PLANS AND POLICIES, INCLUDING DURING THE  
APPLICATION PROCESS

§748.105. What are the requirements for my personnel policies and procedures?

Your personnel policies and procedure must:

(1) Include an organizational chart showing the administrative, professional, and staffing structures and lines of authority;

(2) Include written job descriptions, including minimum qualifications and job responsibilities for each position;

(3) Include written procedures for screening applicants to determine suitability for any position for which you are considering an applicant. These procedures must include [Medium]:

(A) Verifying an applicant's employment history as required by §748.751 of this chapter (relating to What are the requirements for obtaining and verifying an applicant's employment history?); and

(B) Conducting reference checks as required by §748.753 of this chapter (relating to What are the requirements for completing an applicant's reference checks?);

(4) Include a written professional staffing plan that:

(A) Demonstrates that the number, qualifications, and responsibilities of professional positions, including the child-care administrator, are appropriate for the size and scope of your services and that workloads are reasonable enough to meet the needs of the children in care;

(B) Describes in detail the qualifications, duties, responsibilities, and authority of professional positions; for each position, the plan must show whether employment is on a full-time, part-time, or continuing consultative basis; and for part-time and consulting positions, the plan must specify the number of hours and frequency of services;

(C) Documents your staffing patterns, including your child/caregiver ratios, hours of coverage, and plans for providing backup caregivers in emergencies; and

(D) Identifies, if you provide treatment services, your ability to have enough caregivers, including caregivers who are awake throughout the night to supervise children 24 hours a day, including frequent one-to-one monitoring whenever necessary to meet the needs of a particular child;

(5) Include written training requirements for employees and caregivers;

(6) Include policies on whether your operation allows individual caregivers to take children away from the operation for day or overnight visits. The policy must require obtaining the parent's written approval prior to allowing overnight visits with staff. The policy must also address the issue outlined in §748.685(e) of this chapter (relating to What responsibilities does a caregiver have when supervising a child or children?);

(7) Comply with background check requirements outlined in Subchapter F of Chapter 745 of this title (relating to Background Checks);

(8) Require your employees to report serious incidents and suspected abuse, neglect, or exploitation. An employee who suspects abuse, neglect, or exploitation must report the employee's suspicion directly to the Texas Abuse and Neglect Hotline, as directed by Texas Family Code §261.101(b). An employee may not delegate the responsibility to make a report, and you may not require an employee to seek approval to file a report or to notify you that a report was made;

(9) Require that all employees and consulting, contracting, and volunteer professionals who work with a child and others with access to information about a child be informed in writing of their responsibility to maintain child confidentiality; and

(10) Include either the model drug testing policy or a written drug testing policy that meets or exceeds the criteria in the model policy provided in §745.4151 of this title (relating to What drug testing policy must my residential child-care operation have?).

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SUBCHAPTER D REPORTS AND RECORD KEEPING  
DIVISION 3 PERSONNEL RECORDS

§748.363. What information must the personnel record of an employee include?

For each employee, the personnel record must include:

- (1) Documentation showing the date of employment;
- (2) Documentation showing how the person meets the minimum age and qualifications for the position;
- (3) Documentation that your operation has [No weight]:
  - (A) Verified employment history as required by §748.751 of this chapter (relating to What are the requirements for obtaining and verifying an applicant's employment history?); and
  - (B) Conducted reference checks as required by §748.753 of this chapter (relating to What are the requirements for completing an applicant's reference checks?);
- (4) A current job description;
- (5) Evidence of any valid professional licensures, certifications, or registrations the person must have to meet qualifications for the position, such as a current renewal card or a letter from the credentialing entity verifying that the person has met the required renewal criteria;
- (6) A copy of the record of tuberculosis screening conducted prior to the person having contact with children in care showing that the employee is free of contagious tuberculosis as provided in §748.1583 of this title (relating to Who must have a tuberculosis (TB) examination?);
- (7) A notarized *Licensing Affidavit for Applicants for Employment* form as specified in Human Resources Code §42.059;
- (8) A statement signed and dated by the employee documenting that the employee has read a copy of the operational policies required by §748.103 of this title (relating to What policies and procedures must I submit for Licensing's approval as part of the application process?);

(9) A statement signed and dated by the employee indicating the employee must immediately report any suspected incident of child abuse, neglect, or exploitation to the Texas Abuse and Neglect Hotline and to the operation's administrator or administrator's designee;

(10) Proof of request for background checks required by Chapter 745, Subchapter F of this title (relating to Background Checks);

(11) For each person who transports a child, a copy of:

(A) The person's valid driver's license; or

(B) A driver's license check conducted through the Texas Department of Public Safety within the last 12 months;

(12) A record of training, including the date of the training, the number of training hours, and the curriculum covered;

(13) Any documentation of the person's performance with the operation; and

(14) The date and reason for the person's separation, if applicable.

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SUBCHAPTER E PERSONNEL  
DIVISION 1 GENERAL REQUIREMENTS

§748.505. What minimum qualifications must all employees meet?

(a) An employee's behavior or health status must not present a danger to children in care.

(b) Each employee must:

(1) Meet the requirements in Subchapter F of Chapter 745 of this title (relating to Background Checks);

(2) Have a record of a tuberculosis screening showing the employee is free of contagious TB as provided in §748.1583 of this chapter (relating to Who must have a tuberculosis (TB) examination);

(3) Be physically, mentally, and emotionally capable of performing assigned tasks and have the skills necessary to perform assigned tasks;

(4) Complete a notarized *Licensing Affidavit for Applicants for Employment* form, as specified in Human Resources Code §42.059; and

(5) Have cleared a pre-employment screening assessment in which you determined the employee's suitability for the employee's position. The screening must have included [Medium-High]:

(A) Verification of employment history as required by §748.751 of this subchapter (relating to What are the requirements for obtaining and verifying an applicant's employment history?); and

(B) Reference checks, as required by §748.753 of this subchapter (relating to What are the requirements for completing an applicant's reference checks?).

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DIVISION 8 PRE-EMPLOYMENT SCREENING

§748.751. What are the requirements for obtaining and verifying an applicant's employment history?

(a) Before hiring an applicant for a position, you must:

(1) Obtain in writing the applicant's employment history for the last five years, which may include [Medium]:

(A) Any history for an applicant who has not continuously been employed during the last five years; or

(B) A statement that the applicant has no employment history during the last five years; and

(2) When the applicant's employment history indicates the applicant has been employed within the last five years, verify whether the applicant was employed as described in the applicant's employment history by contacting [Medium]:

(A) Each employer included in the five-year employment history; or

(B) The applicant's three most recent employers, at a minimum, if the five-year employment history includes more than three employers; and

(b) If you hire the applicant, you must maintain documentation of the following in the applicant's personnel file:

(1) The applicant's employment history required by subsection (a)(1) of this section [Medium-Low]; and

(2) If the applicant has been employed in the last five years, the results of any contact with an applicant's previous employers related to employment verification. If you are unable to contact an employer or obtain the information described in subsection (a)(2) of this section from an employer [Medium-Low]:

(A) Any refusal by the employer to provide the information; or

(B) Your diligent efforts to contact the employer, which must include more than one attempt to contact an employer who is not permanently unreachable. If the employer is permanently unreachable, your documentation must include the

reason why you made that determination. Examples of an employer being unreachable include:

(i) The employer is out of business and there is no alternative contact information to obtain information from the employer; or

(ii) The employer is deceased.

(c) This rule applies only to applicants who seek employment with your operation on or after August 9, 2023 [No weight].

### Technical Assistance

- Regarding subsection (a)(1), job applications and resumes often capture employment history. If you collect employment history for the last five years through either of these methods, you do not need to maintain a separate written record of an applicant's employment history.
- Regarding subsection (a)(1), the operation may request a variance for this requirement if disclosing employment would present a risk to an applicant's safety. For example, if an applicant is a survivor of human trafficking or domestic violence contacting the reference could alert others to the survivor's location.
- Regarding subsection (b)(2)(B), examples of diligent efforts include calling an employer on separate days, reaching out via different methods (email, telephone, virtually), etc.
- The [CCR TA Library](#) has additional resources for conducting employment verification.

§748.753. What are the requirements for completing an applicant's reference checks?

(a) Before hiring an applicant for a position, you must complete the applicant's reference checks by:

(1) Obtaining from the applicant the name and contact information of at least two individuals unrelated to the applicant who can serve as references by answering questions related to the applicant's suitability to work with or around children [Medium]; and

(2) Contacting each of the two required references to verify that the applicant is suitable to work with or around children. You may contact the reference through an interview or in writing [Medium-High].

(b) For an applicant who is currently or was previously employed in a position responsible for providing care or services to children within the past five years, at least one of the reference checks required in subsection (a) of this section must be a current or prior employer who has supervised or is otherwise familiar with the history and performance of the applicant in that capacity [Medium].

(c) For any reference check you are unsuccessful in completing as required by subsection (a) or (b) of this section, you must document:

(1) Any refusal by the reference to provide the information [Medium-Low]; or

(2) Your diligent efforts to contact the reference, which must include more than one attempt to contact a reference who is not permanently unreachable. If the reference is permanently unreachable, your documentation must include the reason why you made that determination. Examples of a reference being unreachable include [Medium-Low]:

(A) The reference is out of business and there is no alternative contact information to obtain information from the employer; or

(B) The reference is deceased; and

(3) Your assessment of the applicant's suitability to work with or around children [Medium-High].

(d) For each person you hire, you must maintain in the employee's personnel file:

(1) Documentation of each reference check that includes [Medium-Low]:

(A) The reference's name;

(B) The relation of the reference to the applicant;

(C) The reference's contact information;

(D) The date you completed the check;

(E) Information you obtained from the check, documented as:

(i) A summary of the interview; or

(ii) A copy of the written information provided by the reference; and

(F) If you conducted the check through an interview, the name of the person who interviewed the reference; and



(2) If you were unsuccessful in completing a reference check, documentation required by subsection (c) of this section [No weight].

(e) This rule applies only to applicants who seek employment with your operation on or after August 9, 2023 [No weight].

### Technical Assistance

- Regarding subsection (a), when possible, the operation should require and check professional references from individuals the applicant has actually worked with on a day-to-day basis for at least six months within the last five years. If the applicant is unable to produce recent professional references in a setting that provides care or services for children, the operation may accept and check other professional or unrelated personal references who are able to answer questions about the applicant's suitability to work with or around children.
- Regarding subsection (a), if it is not possible to obtain a professional reference, personal references should come from a variety of sources and should not be limited to friends. Neighbors, clergy, or any other member of the applicant's community who can provide a description of the applicant's suitability to work with or around children are all appropriate sources for providing personal references.
- Regarding subsection (a), when conducting a reference check to verify an applicant's suitability to work with or around children, consider gathering information about the applicant's:
  - Appropriateness to have contact with children; and
  - Ability to care for and meet the needs of children.

While not required, additional resources that may assist in determining suitability for employment include the publicly accessible [Employee Misconduct Registry and Nurse Aid Registry](#). Both registries provide information about unlicensed personnel who commit acts of abuse, neglect, exploitation, misappropriation, or misconduct against:

- Residents and individuals receiving services in Intermediate Care Facilities for Individuals with an Intellectual Disability licensed by HHSC;
- Adult foster care providers that contract with HHSC;
- Home and community support services agencies licensed by HHSC; or
- Prescribed pediatric extended care centers licensed by HHSC.

The [HHSC Employee Misconduct Registry webpage](#) has additional information about these registries.

## Technical Assistance

- To meet the requirements in subsection (a)(1), a reference's contact information must include a working telephone number or valid email address. If an applicant provides invalid contact information for a reference, you must obtain updated information from the applicant.
- Regarding subsections (a)(1) and (b), the operation may request a variance for this requirement if contacting a reference would present a risk to an applicant's safety. For example, if an applicant is a survivor of human trafficking or domestic violence contacting the reference could alert others to the survivor's location.
- Regarding subsection (b), you are responsible for conducting a reference check with a child care employer only when the applicant has provided the name of the employer as one of individuals under subsection (a)(1) during the application process.
- You are considered unsuccessful in completing a reference check for the purposes of subsection (c) if you are unable to contact a reference or if a reference refuses to provide the required information. Attempts to contact a reference via a non-working telephone number or invalid email address do not count as diligent attempts to contact the reference.
- An individual who verifies employment history as required by §748.751 may also be utilized as a reference if the individual meets the requirements in subsection (a)(1) or (b) of this rule.
- The [CCR TA Library](#) and [Safe Kids Thrive](#) have additional resources for conducting reference checks.