

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 745 LICENSING
SUBCHAPTER A PRECEDENCE AND DEFINITIONS
DIVISION 1 DEFINITIONS FOR THE LANGUAGE USED IN THIS CHAPTER

§745.11. What words must I know to understand this chapter?

The following words have the following meanings when used in this chapter:

(1) I, my, you, and your--An applicant or permit holder, unless otherwise stated or the context clearly indicates otherwise.

(2) We, us, our, and Licensing--The Child Care Regulation department of the Texas Health and Human Services Commission.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 745 LICENSING
SUBCHAPTER A PRECEDENCE AND DEFINITIONS
DIVISION 2 DEFINITIONS FOR LICENSING

§745.21. What do the following words and terms mean when used in this chapter?

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

(1) Abuse--As defined in the Texas Family Code, §261.001(1) (relating to Definitions) and Texas Administrative Code, Title 40, Chapter 707, Subchapter C, Division 5 (relating to Abuse, Neglect, and Exploitation).

(2) Affinity--Related by marriage as set forth in Texas Government Code, §573.024 (relating to Determination of Affinity).

(3) Business entity--May be an association, corporation, nonprofit association, nonprofit corporation, nonprofit association with religious affiliation, nonprofit corporation with religious affiliation, or limited liability company.

(4) Capacity--The maximum number of children that a permit holder may care for at one time.

(5) Caregiver--A person who is counted in the child to caregiver ratio, whose duties include the supervision, guidance, and protection of a child.

(6) Child--A person under 18 years old.

(7) Child-care facility--An establishment subject to regulation by Licensing that provides assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the establishment operates for profit or charges for its services. A child-care facility includes the people, administration, governing body, activities on or off the premises, operations, buildings, grounds, equipment, furnishings, and materials. A child-care facility does not include child-placing agencies, listed family homes, employer-based child care operations, or shelter care operations.

(8) Child day care--As defined in §745.33 of this chapter (relating to What is child day care?).

(9) Child-placing agency (CPA)--A person, including a sole proprietor, partnership, or business or governmental entity, other than the parents of a child, who plans for the placement of or places a child in a child care operation or adoptive home.

(10) Children related to the caregiver--Children who are the children, grandchildren, siblings, great-grandchildren, first cousins, nieces, or nephews of the caregiver, whether by affinity or consanguinity or as the result of a relationship

created by court decree.

(11) Consanguinity--Two individuals are related to each other by consanguinity if one is a descendant of the other; or they share a common ancestor. An adopted child is related by consanguinity for this purpose. Consanguinity is defined in Texas government Code, §573.022 (relating to Determination of Consanguinity).

(12) Contiguous operations--Two or more operations that touch at a point on a common border are located in the same building.

(13) Controlling person--As defined in §745.901 of this chapter (relating to Who is a controlling person at a child-care operation?).

(14) Deficiency--Any failure to comply with a minimum standard, rule, statute, specific term of your permit, or condition of your probation.

(15) Designated perpetrator--As defined in §745.731 of this chapter (relating to What are designated perpetrators and sustained perpetrators of child abuse or neglect?).

(16) Designee--The person named on the application as the designated representative of the operation who is officially authorized by the owner to speak for and act on the operations' behalf.

(17) Employee--Any person employed by or that contracts with the permit holder, including caregivers, drivers, kitchen personnel, maintenance and administrative personnel, and the center or program director.

(18) Endanger--To expose a child to a situation where physical or mental injury to a child is likely to occur.

(19) Exploitation--As defined in Texas Family Code, §261.001(3) and Texas Administrative Code, Title 40, Chapter 707, Subchapter C, Division 5.

(20) Finding--The conclusion of a Licensing investigation or inspection indicating compliance or deficiency with one or more minimum standards, rules, or statutes.

(21) Full license--The type of full permit that is issued to an operation that requires a license. See also §745.341 of this chapter (relating to What type of permit does Licensing issue?) and §745.343 of this chapter (relating to What is the difference between an initial license and a full license?).

(22) Full permit--A full permit includes a listing, registration, compliance certificate, or a full license. See also §745.341 and §745.343 of this chapter.

(23) Governing body--A group of persons or officers of a business or governmental entity that has ultimate control over the entity.

(24) Governmental entity--A political subdivision or state agency of Texas.

(25) Household member--An individual, other than the caregivers, who resides in an operation.

(26) Initial license--A time-limited license that we issue to certain applicants for a full license in situations described in §745.345 of this chapter (relating to When does Licensing issue an initial license?).

(27) Licensed administrator--As defined in §745.8905 of this chapter (relating to What is a licensed administrator?).

(28) Minimum standards-- Minimum requirements for permit holders that are enforced by Licensing to protect the health, safety, and well-being of children. The minimum standards consist of the rules contained in:

(A) Chapter 742 of this title (relating to Minimum Standards for Listed Family Homes);

(B) Chapter 743 of this title (relating to Minimum Standards for Shelter Care);

(C) Chapter 744 of this title (relating to Minimum Standards for School-Age and Before or After-School Programs);

(D) Chapter 746 of this title (relating to Minimum Standards for Child-Care Centers);

(E) Chapter 747 of this title (relating to Minimum Standards for Child-Care Homes);

(F) Chapter 748 of this title (relating to Minimum Standards for General Residential Operations);

(G) Chapter 749 of this title (relating to Minimum Standards for Child-Placing Agencies);

(H) Chapter 750 of this title (relating to Minimum Standards for Independent Foster Homes); and

(I) Subchapter D, Division 11 of this chapter (relating to Employer-Based Child Care).

(29) Neglect--As defined in the Texas Family Code, §261.001(4) and Texas Administrative Code, Title 40, Chapter 707, Subchapter C, Division 5.

(30) Operation (also known as a child care operation)--A sole proprietor, partnership, or business or governmental entity offering a program that is subject to Licensing's regulation, including day-care operations and residential child care operations. An operation includes the building and grounds where the program is offered, any person involved in providing the program, and any equipment used in providing the program. An operation includes a child-care facility, child-placing agency, listed family home, employer-based child care operation, shelter care operation, or any operation that requires a permit under Chapter 42, Texas Human Resources Code.

(31) Owner—The sole proprietor, partnership, or business or governmental entity that owns an operation that is subject to regulation by Licensing.

(32) Parent--A person who has legal responsibility for or legal custody of a child, including the managing conservator or legal guardian.

(33) Permit--A license, certification, registration, listing, compliance certificate, or any other written authorization granted by Licensing to operate a child care operation. This also includes an administrator's license.

(34) Permit holder--The owner of the operation that is granted the permit.

(35) Pre-kindergarten age child--A child who is three or four years of age before the beginning of the current school year.

(36) Program--Activities and services provided by an operation.

(37) Regulation--Includes the following:

(A) The development of rules, including minimum standards, as provided by statutory authority; and

(B) The enforcement of requirements that are minimum standards, rules, statutes, or any condition or restriction we have placed on a permit. Anyone providing or seeking to provide care or a service that is subject to regulation must comply with the applicable requirements. This includes a permit holder, an applicant for a permit, and anyone providing care or a service without the appropriate permit.

(38) Report--A communication to Licensing or the Department of Family and Protective Services (DFPS), including the Statewide Intake division of DFPS, of:

(A) An allegation of a deficiency in a minimum standard, rule, or statute; or

(B) Any other possible risk to a child in the care of an operation that is subject to regulation by Licensing.

(39) Residential child care--As defined in §745.35 of this chapter (relating to What is residential child care?).

(40) School-age child--A child who is five years of age or older and is enrolled in or has completed kindergarten.

(41) State Office of Administrative Hearings (SOAH)--See §745.8831 of this chapter (relating to What is a due process hearing?).

(42) Sustained perpetrator--See §745.731 of this chapter (relating to Who are designated perpetrators and sustained perpetrators of child abuse or neglect?).

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 745 LICENSING
SUBCHAPTER C OPERATIONS THAT ARE EXEMPT FROM REGULATION
DIVISION 1 DEFINITIONS

§745.101. What words must I know to understand this subchapter?

These words have the following meanings:

(1) Nearby--A person is in the same building, across the street from, or in the same city block as the operation.

(2) Three consecutive weeks--A 21-day time period that includes the first and last days that a program operates and all of the days in between, regardless of whether the program operates on a particular day.

TITLE 26 HEALTH AND HUMAN SERVICES
 PART 1 HEALTH AND HUMAN SERVICES COMMISSION
 CHAPTER 745 LICENSING
 SUBCHAPTER C OPERATIONS THAT ARE EXEMPT FROM REGULATION
 DIVISION 2 EXEMPTIONS FROM REGULATION

§745.115. What programs regulated by other governmental entities are exempt from Licensing regulation?

The following programs and facilities are exempt from our regulation:

Figure: 26 TAC §745.115

Governmental Entity	Description of Exempt Programs
(1) Federal	A facility operated on a federal installation, including military bases and Indian reservations.
(2) State	<p>(A) A facility operated by the Texas Juvenile Justice Department;</p> <p>(B) A facility providing services solely for the Texas Juvenile Justice Department;</p> <p>(C) Any other correctional facility for children operated or regulated by another state agency or political subdivision;</p> <p>(D) A treatment facility or structured program for treating chemically dependent persons that is licensed by the Texas Health and Human Services Commission;</p> <p>(E) A youth camp licensed by the Texas Department of State Health Services; and</p> <p>(F) A youth camp exempt from licensure by the Texas Department of State Health Services under Texas Health and Safety Code, §141.0021, because it is:</p> <p style="padding-left: 40px;">(i) Operated by or on "a campus of an institution of higher education" or "a private or independent institution of higher education," as those terms are defined in Texas Education Code §61.003; and</p> <p style="padding-left: 40px;">(ii) Regularly inspected by a local governmental entity for compliance with health and safety standards.</p>

Governmental Entity	Description of Exempt Programs
(3) Municipal	<p>A recreation program for elementary age (5-13 years) children with the following criteria:</p> <ul style="list-style-type: none"> (i) A municipality operates the program; (ii) The governing body of the municipality annually adopts standards of care by ordinance after a public hearing for such programs, although the governing body of a municipality with a population of at least 300,000 that has adopted standards by ordinance after public hearings at least twice may accept public comment through its Internet website for at least 30 days in lieu of having a public hearing; (iii) The program provides these standards to the parents of each program participant; (iv) The ordinances include child to caregiver ratios, minimum employee qualifications, minimum building, health, and safety standards, and mechanisms for monitoring and enforcing the adopted local standards; (v) The program informs the parents that the state does not license the program; and (vi) The program does not advertise itself as a child care operation.

§745.117. Which programs of limited duration are exempt from Licensing regulation?

The following programs of limited-duration are exempt from our regulation:

Figure: **26** TAC §745.117

Program of Limited Duration	Criteria for Exemption
(1) Parents on the Premises	<p>(A) The program operates in association with a shopping center, business, and other activities such as retreats or classes for religious instruction;</p> <p>(B) The program does not advertise as a child-care facility or day-care center and informs parents that it is not licensed by the state;</p>

Program of Limited Duration	Criteria for Exemption
	<p>(C) The parent or person responsible for the child attends or engages in some elective activity nearby, part-time employees or contractors who conduct the elective activity may use the program meeting the limits stated in subparagraph (D) of this part of the chart. A caregiver for the program may use the program for the caregiver's own children as long as the child remains with a caregiver;</p> <p>(D) A child may only be in care for up to four and one-half hours per day and:</p> <ul style="list-style-type: none"> (i) For up to 12 hours per week; or (ii) For up to 15 hours per week if care is provided so a person may attend an educational class provided by a nonprofit entity, and the program is in a county with a population of 800,000 or more and the county is adjacent to an international border; and <p>(E) The program's caregivers must be able to contact the parent or person responsible for the child at all times.</p>
(2) Short-Term Program	<p>(A) The program operates for less than three consecutive weeks and less than 40 days in a period of 12 months; and</p> <p>(B) It is not a part of an operation subject to our regulation.</p>
(3) Religious Program	<p>A program of religious instruction, such as vacation Bible school, that:</p> <ul style="list-style-type: none"> (i) Lasts for two weeks or less; and (ii) Is conducted by a religious organization during the summer months.
(4) Foreign Exchange/ Sponsorship Program	<p>It is a living arrangement in a caretaker's home where:</p> <ul style="list-style-type: none"> (i) An unrelated child or sibling group lives in the person's home;

Program of Limited Duration	Criteria for Exemption
	<p>(ii) Each child is in the United States on a time-limited visa; and</p> <p>(iii) Each child is under the sponsorship of the person with whom they are living or the sponsorship of some organization.</p>

§745.119. What educational facilities are exempt from Licensing regulation?

The following educational facilities and programs are exempt from our regulation:

Figure: 26 TAC §745.119

Educational Facility	Criteria for Exemption
<p>(1) Accredited Educational Facility for Grades Pre-Kindergarten and Above</p>	<p>(A) The educational facility operates primarily for educational purposes;</p> <p>(B) The educational facility operates the program;</p> <p>(C) All children in the program are at least pre-kindergarten age; and</p> <p>(D) The Texas Education Agency (TEA) or the Southern Association of Colleges and Schools (SACS) accredits the educational facility; or the Texas Private School Accreditation Commission (TEPSAC) accredits the educational facility.</p> <p>Note: For educational facilities that also provide residential child care, See §745.125 of this division (relating to Are additional exemption criteria required for an educational facility that provides residential child care?).</p>
<p>(2) Before or After-School Program Operated by an Accredited Educational Facility</p>	<p>(A) TEA, SACS, or TEPSAC accredits the educational facility;</p> <p>(B) The educational facility operates the child day-care program; and</p>

Educational Facility	Criteria for Exemption
	(C) All children in the program are at least pre-kindergarten age.
(3) Before or After-School Program Operated by a Contracted Entity	<p>(A) TEA, SACS, or TEPSAC accredits the educational facility;</p> <p>(B) The accredited educational facility contracts with an entity to operate the before or after-school program;</p> <p>(C) All children in the program are at least pre-kindergarten age; and</p> <p>(D) TEA, SACS, or TEPSAC approves the curriculum content of the before and after-school child day care.</p>
(4) Educational Facility that is a Member of an Organization Requiring Compliance with Standards	<p>(A) The educational facility must provide an educational program from grades pre-kindergarten through at least grade two;</p> <p>(B) All children in the program are at least pre-kindergarten age;</p> <p>(C) The educational facility provides child day care no more than one hour before and one hour after the customary school day in the community; and</p> <p>(D) The educational facility is a member of an organization that either:</p> <ul style="list-style-type: none"> (i) publishes health, safety, fire, and sanitation standards equal to those required by the state, county, or municipality; or (ii) follows the state, county, or municipal health, safety, and fire codes.

Educational Facility	Criteria for Exemption
(5) Private Educational Facility, Including an Educational Facility that is Religious in Nature	<p>(A) The educational facility offers an educational program that includes one or more of the following:</p> <ul style="list-style-type: none"> (i) Pre-kindergarten through at least grade three; (ii) Any elementary grade (kindergarten through grade 5); or (iii) Any secondary grade (6 through 12); and <p>(B) The facility does not provide more than two hours total of child day care before or after the customary school day in the community.</p>

§745.125. Are additional exemption criteria required for an educational facility that provides residential child care?

Yes, if your educational facility offers residential child care, then you must meet the criteria in §745.119 of this **division** (relating to What educational facilities are exempt from Licensing regulation?) and the following additional criteria to be exempt from our regulation:

(1) Parents must retain primary responsibility for financial support, health problems, or serious personal problems of the students; and

(2) The provision of residential child care must be solely **for facilitating** the student's participation in the educational program and must not exist apart from the educational aspect of the facility.

§745.127. What does **an organization** need to submit to Licensing to determine exemption from regulation for **member** educational facilities under §745.119(4) of this **division** (relating to What educational facilities are exempt from Licensing regulation?)?

The organization to **which an educational facility belongs** must send the following to us:

(1) Documentation that the organization has its own health, safety, fire, and sanitation standards that are equal to those required for licensed operations, or documentation that the organization requires members to comply with state, county, or municipal health, safety, fire, and sanitation codes;

(2) A **monitoring** plan to ensure that members comply with either the health, safety, fire, and sanitation standards of the organization or the health, safety, and

fire codes of the state, county, or municipality. We must review the monitoring plan of the organization; and

(3) A **current** list of names and addresses **of members every six months.**

§745.129. What miscellaneous programs are exempt from Licensing regulation?

The following miscellaneous programs are exempt from our regulation:

Figure: **26** TAC §745.129

Exempt Miscellaneous Programs	Criteria for Exemption
(1) Neighborhood Recreation Program	<p>(A) The program provides activities designed for recreational purposes for children ages 5-13;</p> <p>(B) The governing body of the program must adopt standards for care; at a minimum, these standards must include staffing ratios, staff training, and health and safety standards and mechanisms for monitoring, enforcing the standards, and receiving and resolving complaints from parents of the enrolled children;</p> <p>(C) The program does not accept any compensation other than a nominal annual membership fee; the program does not solicit donations as payment for services or goods provided as part of the program;</p> <p>(D) The program is organized as a non-profit organization or is located at the participant's residence;</p> <p>(E) The program must inform each parent that Licensing does not regulate the operation;</p> <p>(F) The program does not advertise or represent that the program is a child-care facility, day-care center, or licensed before-school or after-school program or that the program offers child-care services; and</p> <p>(G) The program conducts background checks using information that is obtained from the Department of Public Safety for all program employees and volunteers who work with children.</p>
(2) Skills Program	<p>(A) The program offers direct instruction in a single skill, talent, ability, expertise, or proficiency;</p> <p>(B) The program does not provide or offer services that are not directly related to a single skill, talent, ability,</p>

Exempt Miscellaneous Programs	Criteria for Exemption
	<p>expertise, or proficiency, but may offer transportation and snacks;</p> <p>(C) The program does not advertise or represent that the program is a child-care facility, day-care center, or licensed before or after-school program or that the program offers child-care services;</p> <p>(D) The program informs parents that the program is not licensed by the state;</p> <p>(E) The program informs parents of the physical risk a child may face while participating in the program; and</p> <p>(F) The program conducts background checks using information that is obtained from the Department of Public Safety for all program employees and volunteers who work with children.</p>
<p>(3) Caregiver Has Written Agreement with a Parent to Provide Residential Care</p>	<p>(A) A child or sibling group may live with a non-relative adult caregiver if the caregiver:</p> <ul style="list-style-type: none"> (i) Does not care for more than one unrelated child or sibling group; (ii) Had a prior relationship with the child, sibling group, or other family members of the child or sibling group; (iii) Does not receive compensation or solicit donations for the care of the child or sibling group; and (iv) Has a written agreement with the parent to care for the child or sibling group; or <p>(B) Multiple children or sibling groups may live with an adult caregiver if the caregiver:</p> <ul style="list-style-type: none"> (i) Does not care for more than six children, excluding children who are related to the caregiver; (ii) Does not receive compensation for caring for any child or sibling group; and (iii) Has a written agreement under Chapter 34, Family Code, with the parent of each child or sibling group to care for each child or sibling group.

Exempt Miscellaneous Programs	Criteria for Exemption
(4) Emergency Shelter for Minors	<p>(A) The shelter does not otherwise operate as a child-care facility that must have a license from the Texas Health and Human Services Commission (HHSC);</p> <p>(B) The shelter is providing shelter or care to a minor and the minor's child or children, if any;</p> <p>(C) The shelter provides care for the minor and the minor's child or children only when there is an immediate danger to the physical health or safety of the minor or the minor's child or children;</p> <p>(D) The shelter does not provide care for more than 15 days unless:</p> <ul style="list-style-type: none"> (i) The minor consents to shelter or care to be provided to the minor or the minor's children and is: <ul style="list-style-type: none"> (I) 16 years of age or older, resides separate and apart from the minor's parent, and manages the minor's own financial affairs; or (II) Unmarried and is pregnant or is the parent of a child; or (ii) The minor has qualified for Temporary Assistance for Needy Families and is on the waiting list for housing assistance; and <p>(E) The shelter is:</p> <ul style="list-style-type: none"> (i) Currently under contract with a state or federal agency for the provision of shelter or care to children; or (ii) A family violence center that meets the requirements listed under Texas Human Resources Code §51.005(b)(3), as determined by HHSC.
(5) Child or Sibling Group Placed by the Department of Family and Protective Services (DFPS)	<p>(A) The caregiver has a longstanding and significant relationship with:</p> <ul style="list-style-type: none"> (i) The child or sibling group; or (ii) The family of the child or sibling group; <p>(B) DFPS is the managing conservator of the child or sibling group; and</p>

Exempt Miscellaneous Programs	Criteria for Exemption
	(C) DFPS placed the child or sibling group in the caregiver's home.
(6) Food Distribution Program	(A) The program serves an evening meal to children two-years-old or older; and (B) The program is operated by a non-profit food bank in a non-profit, religious, or educational facility for not more than two hours a day on regular business days.
(7) Emergency Shelter for Victims of Human Trafficking	(A) The shelter does not otherwise operate as a child-care facility that is required to have a license from HHSC; (B) The shelter is operated by a nonprofit organization; (C) The shelter provides shelter and care for no more than 15 days to alleged victims of human trafficking as defined in Penal Code §20A.02, who are 13-17 years old; and (D) The shelter is located in a municipality with a population of at least 600,000 that is in a county on an international border; and: (i) Is licensed by, or operates under an agreement with, a state or federal agency to provide shelter and care to children; or (ii) Is a family violence center that meets the requirements listed under Texas Human Resources Code §51.005(b)(3), as determined by HHSC.
(8) Respite Care for a Local Mental Health Authority	A program that provides respite care for a local mental health authority under a contract with that authority.

§745.131. How does a person or entity request that Licensing determine whether a program is exempt?

(a) Except for subsection (b) of this section, a person or entity must submit:

(1) A description of the program on a form we provide; and

(2) Additional documentation to verify that the program meets the criteria required for an exemption.

(b) An educational facility that may be exempt under §745.119(1) or (2) of this

division (relating to What educational facilities are exempt from Licensing regulation?), **may** contact us to determine whether **the facility needs** to complete an exemption form.

§745.135. What if Licensing determines that my program does not meet the exemption criteria outlined in this subchapter?

(a) If we determine that your program does not meet all the criteria for exemption **outlined in this division**, we will send you a letter stating that you must apply for a permit **within certain timeframes**. You will then need to take immediate steps to follow Licensing instructions to **submit an application for a permit within the time frames outlined in the letter**.

(b) **We** may file suit in district court for both a civil penalty and injunctive relief if you:

(1) **Fail to meet the criteria for an exemption** or knowingly engage in activities that require a **permit**; and

(2) **Fail to submit an application for a permit**.

(c) **There are criminal penalties for operating without a permit**.

§745.141. In what circumstances may I apply for a permit even though my program is exempt?

You may apply for a permit if you must have one for your program to receive public funding. If we issue you a permit, then you must comply with all **minimum standards, rules, and** statutes that apply to that permit.

§745.143. If my program is exempt and does not need regulation for funding purposes, can I still obtain a permit from Licensing?

No, if your program is exempt and we do not regulate it under §745.141 of this **division** (relating to In what circumstances may I apply for a permit even though my program is exempt?), we will not issue you a permit.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 745 LICENSING
SUBCHAPTER D APPLICATION PROCESS
DIVISION 2 STAGES OF THE APPLICATION PROCESS AND PRE-APPLICATION INTERVIEW

§745.211. What are the different parts of the application process?

The application process includes:

(1) The applicant completing the pre-application interview, except for an application for a:

(A) Listed family home; or

(B) Compliance Certificate;

(2) The applicant submitting the application materials;

(3) The applicant and Licensing completing the public notice and hearing requirements for residential child-care operations;

(4) Licensing reviewing the application for compliance with minimum standards, rules, and statutes;

(5) Licensing accepting the application as complete, or returning it if incomplete;

(6) Licensing inspecting the applicant's operation and determining whether the operation is in compliance with minimum standards, rules, and statutes, except for listed family homes; and

(7) Licensing issuing or denying a permit.

§745.215. How does Licensing conduct the pre-application interview?

We conduct the pre-application interview in the following ways to meet the needs of both our staff and the applicant:

(1) A group meeting or class, which we may conduct online or through a virtual meeting;

(2) A Licensing office interview;

(3) An interview at the applicant's office;

(4) An interview at the potential operation; or

(5) A telephone interview, if we cannot handle the interview any other way.

TITLE 26 HEALTH AND HUMAN SERVICES
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 CHAPTER 745 LICENSING
 SUBCHAPTER D APPLICATION PROCESS
 DIVISION 3 SUBMITTING THE APPLICATION MATERIALS

§745.241. Who must submit the application for a permit?

(a) The individual or governing body planning to operate the program must return a completed application to us, unless we have determined the program is exempt from regulation.

(b) The governing body of a general residential operation must submit a new application with updated application materials required in §745.243(6) of this division (relating to What does a completed application for a permit include?), including a completed General Residential Operations – Additional Operation Plan (Form 2960, Attachment C), if the operation:

(1) Currently provides treatment services to children with emotional disorders and is requesting to amend its permit to increase its capacity; or

(2) Does not currently provide treatment services to children with emotional disorders but is requesting to amend its permit in order to provide those services.

§745.243. What does a completed application for a permit include?

Application forms vary according to the type of permit. We will provide you with the required forms. Contact your local Licensing office for additional information. The following table outlines the requirements for a completed application:

Figure: 26 TAC §745.243

Type of Application	Required Application Materials
(1) Application for Listing a Family Home	<p>(A) A completed Listing Permit Request (Form 2986);</p> <p>(B) Completed background checks on all applicable persons; see Subchapter F of this chapter (relating to Background Checks);</p> <p>(C) A completed Controlling Person – Child Care Licensing (Form 2760) as set forth in Subchapter G of this chapter (relating to Controlling Persons);</p> <p>(D) Unless the home will only provide care to related children under Chapter 313 of the Labor Code (relating to Requirements for Providers of Relative Child Care), documentation of liability insurance or an acceptable reason for not having the insurance, as required by:</p>

Type of Application	Required Application Materials
	<p>(i) §745.249 of this division (relating to What are the liability insurance requirements for a licensed operation, registered child-care home, or listed family home?); and</p> <p>(ii) §745.251 of this division (relating to What are the acceptable reasons not to have liability insurance?);</p> <p>(E) Proof of a high school diploma or high school equivalent;</p> <p>NOTE: Even though §745.243(1)(E) added this requirement for proof of a high school diploma or equivalent for an applicant for a LFH, this is NOT required. This requirement was not included in Chapter 742, Minimum Standards for Listed Family Homes, for a primary caregiver. <i>As such, you must not require a high school diploma or equivalent for an applicant for a LFH.</i> CCR will remove this requirement from this rule in the future.</p> <p>(F) Proof of safe sleeping training, as required by §745.255 of this division (relating to What safe sleeping training is required for listed family homes?); and</p> <p>(G) The application fee, if applicable.</p>
(2) Application for Registering a Child-Care Home	<p>(A) A completed Request for a Registration Permit (Form 2919);</p> <p>(B) Completed background checks on all applicable persons; see Subchapter F of this chapter;</p> <p>(C) A completed Controlling Person – Child Care Licensing (Form 2760) as set forth in Subchapter G of this chapter;</p> <p>(D) A notarized Affidavit for Applicants for Employment with a Licensed Operation or Registered Child-Care Home (Form 2985) for any employee of the registered child-care home or any applicant you intend to hire;</p> <p>(E) Proof of current certification in pediatric CPR;</p> <p>(F) Proof of current certification in pediatric first aid with rescue breathing and choking;</p>

Type of Application	Required Application Materials
	<p>(G) Verification that the applicant completed the required pre-application interview within one year prior to the date of application;</p> <p>(H) Proof of a high school diploma or high school equivalent;</p> <p>(I) Proof of required training as required by §747.1007(7) of this title (relating to What qualifications must I meet to be the primary caregiver of a registered child-care home?);</p> <p>(J) If the applicant is a for-profit corporation or limited liability company, proof that the corporation or company is not delinquent in paying the franchise tax; for information on the franchise tax, see §745.245 of this division (relating to How do I demonstrate that the governing body is not delinquent in paying the franchise tax?);</p> <p>(K) Documentation of liability insurance or an acceptable reason for not having the insurance, as required by §745.249 and §745.251 of this division; and</p> <p>(L) The application fee.</p>
(3) Application for Licensing a Child Day-Care Operation	<p>(A) A completed Application for a License to Operate a Child Day Care Facility (Form 2910);</p> <p>(B) A floor plan of the building and surrounding space to be used, including dimensions of the indoor and outdoor space;</p> <p>(C) A completed Child Care Licensing Governing Body/Director Designation (Form 2911); this form is not required if the governing body is a sole proprietorship and the proprietor is also the director;</p> <p>(D) Completed background checks on all applicable persons; see Subchapter F of this chapter;</p> <p>(E) A completed Personal History Statement (Form 2982) for each applicant that is a sole proprietor or partner, and all persons designated as director or co-director;</p> <p>(F) A completed Controlling Person - Child Care Licensing (Form 2760), as set forth in Subchapter G of this chapter;</p> <p>(G) If the applicant is a for-profit corporation or limited liability company, proof that the corporation or company is not</p>

Type of Application	Required Application Materials
	<p>delinquent in paying the franchise tax. For information on franchise tax, see §745.245 of this division (relating to How do I demonstrate that the governing body is not delinquent in paying the franchise tax?);</p> <p>(H) Documentation of liability insurance or an acceptable reason for not having the insurance, as required by §745.249 and §745.251 of this division;</p> <p>(I) A completed Plan of Operation for Licensed Center and Home Operations (Form 2948) or a Plan of Operation for School-Age Summer Program or Before/After School Program (Form 2881); the plan of operation must show how you intend to comply with the minimum standards;</p> <p>(J) Verification that the applicant completed the required pre-application interview within one year prior to the date of application; and</p> <p>(K) The application fee.</p>
(4) Application for a Compliance Certificate for a Shelter Care Operation	<p>(A) A completed Small Employer-Based Child Care or Temporary Shelter Child Care Facility Application (Form 2841). If the law requires that the applicant keep the shelter care location confidential, the applicant must include on the application form a valid correspondence address and telephone number, including a method to immediately contact your operation that allows our staff to obtain your location address within 30 minutes.</p> <p>(B) Completed background checks on all applicable persons; see Subchapter F of this chapter.</p> <p>(C) If the applicant is a for-profit corporation or limited liability company, proof that the corporation or company is not delinquent in paying the franchise tax. For information on franchise tax, see §745.245 of this division.</p> <p>(D) The application fee.</p>
(5) Application for a Compliance Certificate for an Employer-Based	<p>(A) A completed Small Employer-Based Child Care or Temporary Shelter Care Facility Application (Form 2841);</p> <p>(B) A floor plan of the building and surrounding space to be used, including dimensions of the indoor and outdoor space;</p>

Type of Application	Required Application Materials
Child Care Operation	<p>(C) Completed background checks on all applicable persons; see Subchapter F of this chapter;</p> <p>(D) If the applicant is a for-profit corporation or limited liability company, proof that the corporation or company is not delinquent in paying the franchise tax; for information on franchise tax, see §745.245 of this division; and</p> <p>(E) The application fee.</p>
(6) Application for Licensing a Residential Child-Care Operation including a Child-Placing Agency	<p>(A) A completed Application for a License to Operate a Residential Child Care Facility (Form 2960);</p> <p>(B) A floor plan of the building and surrounding space to be used, including dimensions of the indoor space;</p> <p>(C) A completed Residential Child Care Licensing Governing Body/Administrator or Executive Director Designation (Form 2819); this form is not required if the governing body is a sole proprietorship, and the proprietor is also the administrator;</p> <p>(D) Completed background checks on all applicable persons; see Subchapter F of this chapter;</p> <p>(E) A completed Controlling Person – Child Care Licensing (Form 2760) as set forth in Subchapter G of this chapter;</p> <p>(F) A completed Personal History Statement (Form 2982) for each applicant that is a sole proprietor or partner, unless you are a licensed administrator;</p> <p>(G) If the applicant is a for-profit corporation or a limited liability company, proof that the corporation or company is not delinquent in paying the franchise tax; for information on franchise tax, see §745.245 of this division;</p> <p>(H) Documentation of liability insurance or an acceptable reason for not having the insurance, as required by §745.249 and §745.251 of this division;</p> <p>(I) Written plans that are required by minimum standards, including §748.101 of this title (relating to What plans must I submit for Licensing's approval as part of the application process?) and §749.101 of this title (relating to What plans must I submit for Licensing's approval as part of the application process?);</p>

Type of Application	Required Application Materials
	<p>(J) Written policies and procedures that are required by minimum standards, including §748.103 of this title (relating to What policies and procedures must I submit for Licensing's approval as part of the application process?) and §749.103 of this title (relating to What policies and procedures must I submit for Licensing's approval as part of the application process?);</p> <p>(K) Documentation that your child-placing agency is legally established to operate in Texas;</p> <p>(L) Verification that the applicant completed the required pre-application interview within one year prior to the date of application;</p> <p>(M) A completed General Residential Operations – Additional Operation Plan (Form 2960, Attachment C), if the applicant is applying for a permit to open a general residential operation that will provide treatment services to children with emotional disorders; and</p> <p>(N) The application fee.</p>
(7) Application for Certification of a Child Day-Care Operation	<p>(A) A completed Application for a License to Operate a Child Day Care Facility (Form 2910);</p> <p>(B) A floor plan of the building and surrounding space to be used, including dimensions of the indoor and outdoor space;</p> <p>(C) A completed Child Care Licensing Governing Body/Director Designation (Form 2911);</p> <p>(D) Completed background checks on all applicable persons. See Subchapter F of this chapter;</p> <p>(E) A completed Personal History Statement (Form 2982) for all persons designated as director or co-director;</p> <p>(F) A completed Controlling Person – Child Care Licensing (Form 2760) as set forth in Subchapter G of this chapter;</p> <p>(G) Verification that the applicant completed the required pre-application interview within one year prior to the date of application; and</p>

Type of Application	Required Application Materials
	(H) A completed Plan of Operation for Licensed Center and Home Operations (Form 2948) or a Plan of Operation for School-Age Summer Program or Before/After School Program (Form 2881); the plan of operation must show how you intend to comply with the minimum standards.
(8) Application for Certification of a Residential Child-Care Operation including a Child-Placing Agency	<p>(A) A completed Application for a License to Operate a Residential Child Care Facility (Form 2960);</p> <p>(B) A floor plan of the building and surrounding space to be used, including dimensions of the indoor space;</p> <p>(C) A completed Residential Child Care Licensing Governing Body/Administrator or Executive Director Designation (Form 2819);</p> <p>(D) Completed background checks on all applicable persons; see Subchapter F of this chapter;</p> <p>(E) A completed Controlling Person - Child Care Licensing (Form 2760) as set forth in Subchapter G of this chapter;</p> <p>(F) A completed Personal History Statement (Form 2982) for each applicant that is a sole proprietor or partner, unless you are a licensed administrator;</p> <p>(G) Verification that the applicant completed the required pre-application interview within one year prior to the date of application; and</p> <p>(H) Policies, procedures, and documentation required by minimum standards.</p>

§745.249. What are the liability insurance requirements for a licensed operation, registered child-care home, or listed family home?

(a) Unless you have an acceptable reason not to have the insurance as specified in §745.251 of this division (relating to What are acceptable reasons not to have liability insurance?), a licensed operation, registered child-care home, or listed family home must:

(1) Have liability insurance coverage in the amount of \$300,000 for each occurrence of negligence that covers injury to a child while the child is on your premises or in your care; and

(2) Provide proof of coverage to Licensing each year by the anniversary date of

the issuance of your permit.

(b) A listed family home that only provides care to related children under Chapter 313 of the Texas Labor Code (relating to Requirements for Providers of Relative Child Care) does not have to meet these liability insurance requirements.

§745.251. What are acceptable reasons not to have liability insurance?

(a) You do not have to have liability insurance that meets the requirements of §745.249 of this division (relating to What are the liability insurance requirements for a licensed operation, registered child-care home, or listed family home?) if you cannot carry the insurance because:

(1) Of financial reasons;

(2) You are unable to locate an underwriter who is willing to issue a policy to the operation or home; or

(3) You have already exhausted the limits of a policy that met the requirements.

(b) If you cannot carry the liability insurance because of a reason listed in subsection (a) of this section, you must submit with your application a statement that you cannot carry the insurance and the reason that you cannot carry the insurance.

§745.253. When must I notify parents that I do not carry liability insurance?

(a) If you do not carry liability insurance that meets the requirements of §745.249 of this division (relating to What are the liability insurance requirements for a licensed operation, registered child-care home, or listed family home?), then you must notify a child's parent in writing that you do not carry the insurance before you admit a child into your care.

(b) You may use Form 2962, Attachment A, Parental Notification of Lack of Required Liability Insurance, located on Licensing's provider website to notify parents. Regardless of whether you use this form, you must be able to demonstrate that you provided written notice to the parent of each child in your care.

Note: Repealed §745.253 because content was incorporated into amended §745.251 and new §745.253.

§745.255. What safe sleeping training must a person complete when applying to operate a listed family home?

An applicant for a listed family home, including a home that will only provide care and supervision for children related to the primary caregiver, must successfully complete one hour of safe sleeping training that covers the following topics:

(1) Recognizing and preventing shaken baby syndrome and abusive head trauma;

(2) Understanding and using safe sleeping practices and preventing sudden

infant death syndrome (SIDS); and

(3) Understanding early childhood brain development.

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 (b) of this section, the following general residential operations located in a county with a population of less than 300,000 must meet the public notice and hearing requirements:

(1) Any general residential operation applying for a license;

(2) Any general residential operation requesting to amend its permit to increase capacity; and

(3) A general residential operation 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.

(b) 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.

(c) Notwithstanding the exemption provided in subsection (b) 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	(A) The notice must include: (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

Type of Requirements	Requirements to Be Completed
	<p>provide child care services;</p> <p>(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;</p> <p>(iv) The date, time, and location of the public hearing;</p> <p>(v) A statement that a person may submit written comments or written information to Licensing concerning the application or the request to increase capacity instead of or in addition to appearing at the public hearing; and</p> <p>(vi) The name, address, and telephone number of the Licensing representative that will attend the public hearing;</p> <p>(B) The required notice must be published either:</p> <p>(i) After we accept your application or evaluate your request to amend your permit, as applicable; or</p> <p>(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> <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 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</p>

Type of Requirements	Requirements to Be Completed
	<p>later than one month after the date that we accept your application. If you are requesting to amend your permit to increase capacity, you must hold the hearing after we have evaluated your request to increase capacity;</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> <p>(i) A copy of the newspaper notice, the date the notice was published, and the name of the newspaper in which the notice appeared;</p> <p>(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 to increase capacity;</p> <p>(iii) Your responses to any negative comments;</p> <p>(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;</p> <p>(v) The impact of the proposed services on the ratio in 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</p>

Type of Requirements	Requirements to Be Completed
	agencies; and (vii) Any other documentation available to support the position of the report.

(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.

Note: Repealed §745.279 because content was incorporated into new §745.339 and new §745.340.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 745 LICENSING
SUBCHAPTER D APPLICATION PROCESS
DIVISION 5 ACCEPTING OR RETURNING THE APPLICATION

§745.301. How long does Licensing have to review my application and notify me of my application status?

(a) If you are applying for:

(1) A permit other than a compliance certificate, we have 21 days after receiving your application to review the paperwork; or

(2) A compliance certificate, we have 10 days after receiving your application to review the paperwork.

(b) After the review of your application, we will notify you 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 subchapter (relating to When does Licensing have good cause for exceeding its timeframes for processing my application?);

(2) You are ineligible to apply for a permit;

(3) Your application is complete and accepted for processing; or

(4) Your application is incomplete. The notification letter will:

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

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

Note: Repealed §745.301 because content was updated and incorporated into new §745.301.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 745 LICENSING
SUBCHAPTER D APPLICATION PROCESS
DIVISION 6 TIME FRAMES FOR ISSUING OR DENYING A PERMIT

§745.321. How long does Licensing have to issue or deny a permit after accepting my application?

(a) If you are applying for a permit other than a compliance certificate, we will issue or deny you a permit no later than two months after we accept your application, unless there is good cause to exceed this timeframe.

(b) If you are applying for a compliance certificate, we will issue or deny you a certificate no later than 30 days after we accept your application, unless there is good cause to exceed this timeframe.

Note: Repealed §745.321 because content was incorporated into new §745.321.

§745.323. What if Licensing exceeds its timeframes for processing my application?

You may file a complaint with the Associate Commissioner for Child Care Regulation. The Associate Commissioner will resolve the dispute in a timely manner. We must reimburse you for your application fee if we do not establish good cause for exceeding the time limit.

§745.325. How do I file a complaint regarding timeframes for processing my application?

(a) You must send a written complaint regarding the timeframes for processing your application before we issue or deny you a permit.

(b) You must send your complaint stating the nature of the dispute to the Associate Commissioner for Child Care Regulation, Texas Health and Human Services Commission, Mail Code E-550, P.O. Box 149030, Austin, Texas 78714.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 745 LICENSING
SUBCHAPTER D APPLICATION PROCESS
DIVISION 7 THE DECISION TO ISSUE OR DENY A PERMIT

§745.339. What factors will we consider when evaluating an application for a permit or a request to amend a permit?

When we determine whether to issue or amend a permit, we will consider the following:

(1) The application or request to amend the permit and any information submitted with the application or request;

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

(3) Any information that Licensing gathers through the application or amendment process, including any written comments and written information submitted to Licensing during the process that Licensing considers to be relevant to the decision to issue or deny the permit or amendment;

(4) If a public hearing is required in §745.273 of this subchapter (relating to Which residential child-care operations must meet the public notice and hearing requirements?):

(A) Any written comments and written information provided by interested parties at a public hearing; and

(B) The Verbatim Record and summary Report of Public Comment from the Community, as required in §745.275 of this subchapter (relating to What are the specific requirements for a public notice and hearing?); and

(5) If the application or the request to amend the permit is for a general residential operation that will provide treatment services to children with emotional disorders:

(A) All parts of the Additional Operation Plan required in §745.243(6)(M) of this subchapter (relating to What does a completed application for a permit include?);

(B) Evidence of community support for, or opposition to, the proposed general residential operation, including any public comment relating to the licensing of the proposed operation; and

(C) The impact statement from the school district likely to be affected by the proposed general residential operation, including information relating to any financial impact on the district that may result from an increase in enrollment.

§745.340. For what reason may Licensing deny me a permit based on the results of a required public hearing?

If a public hearing is required in §745.273 of this subchapter, we may deny you a license or an amendment to your permit if we determine that:

(1) The community has insufficient resources to support the children that you propose to serve;

(2) Issuing the license or amending the permit would adversely affect the children you propose to serve:

(A) By increasing the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program; or

(B) If you are providing or seeking to provide treatment services to children with emotional disorders by significantly impacting the local school district; or

(3) Issuing the license or amending the permit would have a significant adverse impact on the community and would limit opportunities for social interaction for the children that you propose to serve.

§745.341. What type of permit does Licensing issue?

(a) We issue a full permit to an applicant seeking to operate a listed family home, registered child-care home, shelter care operation, or employer-based child care operation if we accept the application and the operation meets all of the requirements in this chapter.

(b) We issue either an initial license or a full license, as described in §745.345 of this division (relating to When does Licensing issue an initial license?) and §745.351 of this division (relating to If I have an initial license, when will I be eligible for a full license?).

(c) If you are applying for a certification, you must go through the same requirements as an applicant for a full license, including being issued an initial certification and, if appropriate, a subsequent full certification. The rules in this division that pertain to an initial license also apply to an initial certification.

§745.343. What is the difference between an initial license and full license?

(a) An initial license is a permit allowing you to operate pending the possible issuance of a full license.

(b) A full license is a type of full permit.

Note: Repealed §745.343 because content was clarified and incorporated into new §745.343 and §745.344.

§745.344. How long is a full permit valid?

Your full permit will remain valid if:

(1) You comply with renewal requirements, as explained in Division 12 of this subchapter (relating to Permit Renewal);

(2) Your permit is not automatically suspended or revoked:

(A) For failure to pay a fee under Human Resources Code (HRC) §42.054(f);

(B) For failure to submit information for a background check for a listed family home under HRC §42.052(j); or

(C) Because the license changes location or ownership, as further explained in Division 10 of this subchapter (relating to Relocation of Operation and Change in Ownership);

(3) We do not suspend, revoke, or refuse to renew your permit; and

(4) You do not relinquish your permit and close your operation.

§745.345. When does Licensing issue an initial license?

We issue you an initial license instead of a full license when we accept your application, determine that your operation is in compliance with applicable minimum standards, rules, and statutes, you pay the initial license fee, and one of the following situations exists:

(1) We have not been able to evaluate your operation's ability to comply with all minimum standards, rules, and statutes relating to children in care because:

(A) Your operation is not currently providing care to children; or

(B) Your operation has been operating without a license;

(2) Your operation has changed location and has made changes in the type of child-care services it offers;

(3) We licensed you for one type of child care, and you apply to add another type of child care to your program (an initial license is issued for the new type of child care); or

(4) Change in ownership results in changes in policy and procedure or in the staff who have direct contact with the children. (See §745.437 of this subchapter (relating to What is a change in the ownership of an operation?)).

§745.347. How long is an initial license valid?

(a) An initial license is valid for six months from the date we issue it.

(b) We may renew an initial license for up to an additional six months. You may only have an initial license for a maximum of one year.

(c) The initial license expires when we issue or deny you a full license, even if the period for the initial license has not yet expired at the time the full license is issued or denied.

§745.349. What if I am not able to care for children during the initial period?

We cannot determine compliance with **all minimum** standards unless you have children in care. If you do not have children in care during the initial license period:

(1) We may renew your initial **license**, if you have not exceeded the maximum one year period;

(2) We may **deny you a full license if we determine that denial is appropriate under §745.8650 of this chapter (relating to When may Licensing deny a permit?); or**

(3) You may submit a new application form and fees.

§745.351. If I have an initial license, when will I be eligible for a full license?

You will be eligible for a full license when:

(1) Your initial license has been in effect for at least three months;

(2) You have met **all minimum** standards on a continuing basis;

(3) A general residential operation that is exempt from the hearing and notice requirements at §745.273**(b)** of this **subchapter** (relating to Which residential child-care operations must meet the public notice and hearing requirements?) begins providing trafficking victim services;

(4) The Licensing staff has made three inspections, unless supervisory approval is obtained to make fewer visits; and

(5) You have paid your full license fee in accordance with Subchapter E of this chapter (relating to Fees).

§745.353. What can I do if Licensing denies me a permit?

You may request an administrative review **or** an appeal regarding the denial of a permit. The letter notifying you of the denial will include instructions and timeframes for requesting an administrative review **or** an appeal. Also see Subchapters L and M of this chapter (relating to **Enforcement** Actions, and Administrative Reviews and Due Process Hearings).

§745.355. When may Licensing issue a full license in lieu of an initial license?

We may issue a full license instead of an initial license when we determine that it is unnecessary for us to evaluate the operation's ability to comply with minimum standards, rules, and statutes, including when:

(1) The ownership of an operation changes as follows without changing the type of child care services that the operation offers, any policy or procedures, or the staff who have direct contact with children in care:

(A) An owner changes from one type of business entity to another, and the new business entity has the same governing body as the previous owner;

(B) An owner that is a sole proprietor or partnership forms a business entity to be the new owner, and the business entity's governing body consists only of persons who were a part of the previous ownership; or

(C) A third party acquires the publicly traded stock of a business entity that will continue to own and operate the operation following acquisition;

(2) The operation changes location, and we determine that the new location complies with the minimum standards; or

(3) We were able to evaluate the operation's ability to comply with minimum standards, rules, and statutes during a recent initial license period, but circumstances required the owner to withdraw the previous application and submit a new application at the same location.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 745 LICENSING
SUBCHAPTER D APPLICATION PROCESS
DIVISION 8 DUAL AND MULTIPLE PERMITS

§745.371. Can Licensing issue more than one registration or listing for a single child-care home?

No. We can issue only one registration or listing per single living unit. For a registered **child-care home or listed family home**, if more than one person cares for children in a single living unit **or home**, the name on the **registration or listing must** be the name of the primary **caregiver**.

§745.373. May I have more than one licensed child-care home?

(a) Except as described in subsection (b) of this section, you may not have more than one licensed child-care home, because a primary caregiver must provide care in the caregiver's own residence.

(b) If you were licensed to operate more than one group day-care home prior to September 1, 2003, you may continue to operate two or more licensed child-care homes as long as the license remains valid and you meet the following conditions:

(1) Your facilities are at separate locations;

(2) You maintain your operations separately; and

(3) You do not move children back and forth between the two licensed child-care homes.

§745.375. May I offer child day care at my agency foster home or independent foster home?

You may only obtain a child day care permit for a registration or a listing at your agency foster home under the following conditions:

(1) Both the Director of Residential Regional Operations or designee and the Director of Day Care Regional Operations or designee approve the child day care permit for the foster home;

(2) The total number of children in care does not exceed six, including your own children, your foster children, children receiving respite care at your foster home, and the children to whom you provide child day care; and

(3) You meet the requirements for your registration or listing, including the payment of fees.

§745.379. Can a single operation have more than one child **day care** license at the same location?

A single operation may **not** have **more than** one **child day care** license **at the same**

location.

Note: Repealed §745.383 as not necessary because content is already included in Chapter 747, Minimum Standards for Child-Care Homes.

§745.385. Can a person or governing body operate multiple operations under the same permit?

(a) A person or governing body may not operate multiple operations under the same permit unless the operations are:

(1) The same type of child care operations;

(2) Contiguous or nearby one another; and

(3) Operate as a single operation as evidenced by staffing, finance, and administrative supervision.

(b) A permit that we issued prior to September 1, 2005, that allows multiple residential child-care operations to operate under that permit remains valid regarding the addresses listed on the permit until it expires or is revoked or voluntarily relinquished.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 745 LICENSING
SUBCHAPTER D APPLICATION PROCESS
DIVISION 9 REAPPLYING FOR A PERMIT

§745.403. When am I eligible to apply for another permit after Licensing denies, revokes, or refuses to renew my permit?

(a) You are eligible to apply for another permit after the fifth anniversary of the date on which any of the following adverse actions takes effect or you voluntarily close or relinquish your permit after receiving notice of our intent to take such an action:

(1) A denial of your application under §745.8650 of this chapter (relating to When may Licensing deny a permit?);

(2) A revocation of your permit under §745.8654 of this chapter (relating to When may Licensing revoke my permit?); or

(3) A refusal to renew your permit under §745.8655 of this chapter (relating to When may Licensing refuse to renew my permit?).

(b) A denial, revocation, or refusal to renew takes effect when:

(1) You have waived or exhausted your due process rights regarding the denial, revocation, or refusal to renew; and

(2) The denial, revocation, or refusal to renew is upheld.

(c) This rule does not apply if:

(1) Your permit is automatically revoked:

(A) For failure to pay a fee under Human Resources Code (HRC) §42.054(f);

(B) For failure to submit information for a background check for a listed family home under HRC §42.052(j); or

(C) Because the license changes location or ownership, as further explained in Division 10 of this subchapter (relating to Relocation of Operation and Change in Ownership); or

(2) Your permit expires.

Note: Repealed §745.407 as not necessary because revocation notices are no longer published in the newspaper, therefore, there is no reason to reimburse Licensing for the cost of publishing.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 745 LICENSING
SUBCHAPTER D APPLICATION PROCESS
DIVISION 10 RELOCATION OF OPERATION

§745.429. What must I do if I relocate my operation after I receive my compliance certificate?

- (a) A change in location automatically revokes your **compliance** certificate.
- (b) If you are going to relocate your operation for any reason, you must notify us as early as possible before the move to voluntarily relinquish your permit. You may reapply for a permit to operate at your new location. See Division 3 of this subchapter (relating to Submitting the Application Materials).
- (c) If you fail to notify us before you relocate, we may deny you a permit for the new location.

§745.431. What must I do if I relocate my **listed** family **home**?

If you relocate your listed family home, you must notify **us of the new address within 15** days after the **move**. We will amend the **listing** to reflect the new address. The issuance date on the original **listing** will remain in effect. There is no additional fee for your change in location. We may revoke your listing if you do not notify us within 15 days of the relocation.

§745.433. What must I do if I relocate my registered child-care home after I receive my registration?

If you relocate your registered child-care home, you must notify **us of the new address within 15** days after the **move**. We will inspect your new location. **If the new location complies with the minimum standards**, we will amend the **registration** to reflect the new address. The issuance date on the **registration** will remain in effect. There is no additional fee for your change in location. We may revoke your registration if you do not notify us within 15 days of the relocation.

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

(a) A change in location automatically revokes your **license or certification unless your license or certification is for:**

(1) **A child-placing agency; or**

(2) **A school-age program that operates exclusively during the summer or any other time school is not in session.**

(b) For all **licenses and certifications**, other than **those exempted in subsection (a) of this section**, if you are going to relocate your operation for any reason, you must notify us as early as possible before the move to voluntarily relinquish your permit. You may reapply for a permit to operate at your new location. See Division 3 of this

subchapter (relating to Submitting the Application Materials). If you fail to notify us before you relocate, we may deny you a permit for the new location.

(c) If you are going to relocate your child-placing agency or your school-age program that operates exclusively during the summer or any other time school is not in session, you must notify us of the move no later than 15 days prior to the move. You must complete a form provided by us showing your new address. We will inspect your new location. If the new location complies with the minimum standards, we will amend the permit to reflect the new address. The issuance date that is on your original permit will remain in effect. There is no additional fee for your change in location.

§745.436. What is the result of a change in the ownership of an operation with a license?

A change in the ownership of an operation with a license results in the automatic revocation of the license.

§745.437. What is a change in the ownership of an operation?

(a) A change in ownership of an operation occurs when:

- (1) The owner stated on the license no longer owns the operation;
- (2) The governing body stated on the license no longer has the ultimate authority and responsibility for the operation;
- (3) There is a change in the legal organizational structure of the operation; or
- (4) A business entity that is a permit holder is sold or otherwise acquired by one or more persons or business entities, except as set forth in subsection (b) of this section.

(b) A change in ownership of an operation does not include the acquisition of the publicly traded stock of a business entity if the following conditions exist:

- (1) The business entity listed on the application and on the permit will continue to own and operate the operation following acquisition;
- (2) There will be no change in the operation's policy or procedure because of the transaction;
- (3) There will be no change in the staff who have contact with children in care because of the transaction; and
- (4) Any change in the day-to-day operations that might occur after the sale is in the ordinary course of business and not as a result of the stock transaction.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 745 LICENSING
SUBCHAPTER D APPLICATION PROCESS
DIVISION 11 EMPLOYER-BASED CHILD CARE

§745.461. Where must a child's parent be while the child is in care?

A parent must:

- (1) Work within the same building in which the child care is located;
- (2) Routinely be present at the work site for most of the time the child is in care;
- (3) Be physically accessible to the child, although the parent may be away from the building for a limited period of time, such as for lunch or to attend a business meeting, a medical appointment, or training related to work; and
- (4) Not be away from the building for more than four hours in a day or for more than ten hours in a week.

§745.464. What are my responsibilities regarding criminal background check requirements?

In addition to meeting the requirements in Subchapter F of this chapter (relating to Background Checks), you must ensure all information related to background checks is kept confidential as required by Texas Human Resources Code §40.005(d) and (e) and Texas Government Code §411.084 and §411.085.

§745.467. What are my responsibilities regarding the report of abuse, neglect, or exploitation?

In addition to reporting serious incidents, you must inform your employees of the duty to report suspected abuse, neglect, or exploitation to the Texas Department of Family and Protective Services as required by the Texas Family Code, §261.101, and Texas Human Resources Code, §42.063(c).

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 745 LICENSING
SUBCHAPTER D APPLICATION PROCESS
DIVISION 12 PERMIT RENEWAL

§745.471. What types of permits need to be renewed?

- (a) A full license, certification, or registration will expire if it is not renewed.
- (b) There are no renewal requirements for a compliance certificate or listing.

§745.473. When do I need to apply to renew my full license, certification, or registration?

(a) If your permit is subject to renewal as outlined in §745.471 of this division (relating to What types of permits need to be renewed?), you must apply to renew your permit every two years after the date we issue your full permit.

(b) If your operation is under an enforcement action described in §745.8603 of this chapter (relating to What enforcement actions may Licensing recommend or impose?), you must still timely apply to renew your permit.

(c) During the year that you must renew your permit, your renewal period:

(1) Begins 60 calendar days before the anniversary of when we issued your full permit to you; and

(2) End on the date of the anniversary.

(d) If you are late in applying for the renewal of your permit, you have 30 additional calendar days after your renewal period to apply for the renewal.

§745.475. What does a completed renewal application for a permit include?

(a) A completed renewal application includes:

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

(A) Your operation's basic information on Licensing's consumer website;

(B) The list of controlling persons at your operation;

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

(2) A statement as to whether your operation continues to need any existing waivers and variances;

(3) Verification that you have corrected any deficiency with an expired compliance date, unless the deficiency is pending due process; and

(4) Verification that all fees and administrative penalties that you owe have

been paid;

(5) Validating on your provider website the list of persons who require a background check because of their association with your operation; and

(6) If you operate a general residential operation that provides treatment services for children with emotional disorders, a written response that addresses any public comments made regarding the renewal of the operation's license during a public hearing, if required by §745.487 of this division (relating to When is a public hearing required for the renewal of a license?).

(b) You must submit a completed renewal application for us to evaluate your permit for renewal.

§745.477. What happens after Licensing receives my renewal application?

(a) After receiving your renewal application, we evaluate whether:

(1) You completed the renewal application as required by §745.475 of this division (relating to What does a completed renewal application for a permit include?);

(2) We have cited you for repeated deficiencies or a pattern of deficiencies during the previous two years;

(3) You have corrected each deficiency with an expired compliance date that is not pending due process, including an administrative review, a due process hearing, or any subsequent rights of appeal;

(4) You currently meet all background check requirements in Subchapter F of this chapter (relating to Background Checks);

(5) You have paid:

(A) All fees required by Subchapter E of this chapter (relating to Fees); and

(B) Each administrative penalty that you owe after waiving or exhausting any due process provided under Texas Human Resources Code §42.078;

(6) We must visit your operation to determine your eligibility for renewal, such as to review records to determine whether you have corrected all relevant deficiencies; and

(7) We must hold a public hearing as required by §745.487 of this division (relating to Is a public hearing required for the renewal of a license?).

(b) Within 30 days of receiving your renewal application, we will send you written notice that:

(1) We have renewed your permit;

(2) Your renewal application is incomplete as further described in subsection (c)

of this section; or

(3) We refuse to renew your permit as provided in §745.8655 of this chapter (relating to When may Licensing refuse to renew my permit?).

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

(1) Our evaluation that you did not complete one or more of the renewal application requirements at §745.475 of this division (relating to What does a completed renewal application for a permit include?);

(2) A list of the requirements that must be completed before we can renew your permit, which may include:

(A) Correcting a deficiency with an expired compliance date that is not pending due process;

(B) Meeting a certain background check requirement; or

(C) Paying any of the following:

(i) A fee required by Subchapter E of this chapter (relating to Fees); or

(ii) An administrative penalty that you owe after waiving or exhausting any due process provided under Texas Human Resources Code §42.078; and

(3) A statement that we must hold a public hearing required by §745.487 of this division (relating to When is a public hearing required for the renewal of a license?), if applicable.

(d) If your renewal application is incomplete and you submitted it during the renewal period, you have unlimited attempts to submit the missing information and to correct the deficiencies until your permit expires.

(e) If your renewal application is incomplete and you submitted it during the late renewal period, you have 15 days to submit a completed renewal application from the date it was rejected.

§745.478. When does Licensing have good cause to exceed the timeframe for processing my renewal application?

We have good cause to exceed the 30-day timeframe for processing your renewal application:

(1) For a reason that would allow us to exceed our timeframes for processing an application for a permit at §745.327 of this subchapter (relating to When does Licensing have good cause for exceeding its timeframes for processing my application?);

(2) Because of an enforcement action, including when:

(A) We are in the process of revoking or suspending your permit;

(B) Your permit is presently suspended; or

(C) We recommend or impose a voluntary plan of action or a corrective action plan;

(3) We impose any other appropriate action to address an issue identified in §745.8605 of this subchapter (relating to When can Licensing recommend or impose an enforcement action against my operation?); or

(4) We are in the process of holding a public hearing as required by §745.487 of this division (relating to When is a public hearing required for the renewal of a license?).

§745.481. When does my permit expire?

(a) Your permit expires if:

(1) You do not submit your renewal application during your renewal period or the late renewal period;

(2) You submit your renewal application during the renewal period, you were notified that your application was incomplete, and you do not submit a completed renewal application before the end of the late renewal period; or

(3) You submit your renewal application during the late renewal period, you were notified that your application was incomplete, and you do not submit a completed renewal application within 15 calendar days after notification.

(b) If your permit does not expire under subsection (a) of this section, you may continue to operate while Licensing processes your renewal application, unless we determine the operation poses an immediate threat or danger to the health or safety of children, according to §745.751 of this chapter (relating to What factors does Licensing consider when determining if a person or operation is an immediate threat to the health or safety of children?). For how an enforcement action may affect your ability to renew your permit, see §745.485 of this division (relating to How does an enforcement action affect the renewal of my permit?).

§745.483. What must I do if my permit expires?

If your permit expires, your operation must cease operating immediately. Before you can operate again, you will have to submit a new application as required by §745.243 of this chapter (relating to What does a completed application for a permit include?) and pay any necessary fees.

§745.485. How does an enforcement action affect the renewal of my permit?

(a) During the renewal period, or before your permit is renewed, your permit will be affected as stated in subsections (b) and (c) of this section if:

(1) Your operation is presently under an enforcement action; or

(2) We recommend or impose an enforcement action against your permit.

(b) If we renew your permit while your operation is already on a voluntary plan of action or corrective action plan:

(1) You must continue to meet any requirement related to the action taken. For example, if you are on a corrective action plan, you must continue to meet all conditions in the plan; and

(2) Our renewal of your permit does not affect our ability to impose a more serious enforcement action if you do not follow the conditions of the voluntary plan of action or corrective action plan or your operation's compliance with minimum standards, rules, or statutes does not improve as a result of the plan.

(c) The following table describes how certain enforcement actions affect our ability to renew your permit:

Figure: 26 TAC §745.485(c)

If:	We will not renew your permit:
(1) We are in the process of revoking your permit,	Unless: (A) The revocation is overturned, and due process is complete; or (B) We withdraw the revocation.
(2) Your permit is presently suspended, or we are in the process of suspending your permit,	Unless: (A) At the end of the suspension period, we determine that you: (i) Have resolved each issue that was a reason for the suspension; or (ii) Can resolve any remaining issue through the implementation of a voluntary plan of action or corrective action plan; or (B) The suspension is overturned and due process is complete, or we withdraw the suspension.
(3) We recommend or impose a voluntary plan of action or a corrective action plan,	Unless: (A) You begin the voluntary plan of action or corrective action plan; (B) We determine the plan of action or corrective action plan is unnecessary; or (C) The recommendation for a corrective action plan is overturned during the administrative review.

If:	We will not renew your permit:
	Note: If you fail to correct any deficiency by the required compliance date, we cannot renew your permit before you correct the deficiency, unless the deficiency is pending due process during your timeframe to renew your permit.

Note: Repealed §745.485 because content was incorporated into new §745.485.

§745.487. When is a public hearing required for the renewal of a license?

(a) We must hold a public hearing to obtain public comments regarding the renewal of the license of a general residential operation that provides treatment services to children with emotional disorders, if the commissioner’s court in the county in which the operation is located requests one.

(b) The commissioner’s court must submit its request to hold a hearing prior to Licensing renewing the operation’s license.

§745.489. What is required for a public hearing for the renewal of a license?

(a) For a public hearing related to the renewal of a license to operate a general residential operation that provides treatment services to children with emotional disorders:

(1) A Licensing representative will facilitate the hearing;

(2) A representative of the general residential operation that submitted the renewal application must attend the hearing;

(3) 10 days prior to the scheduled public hearing, Licensing will send a notice of the public hearing to the commissioner’s court and the general residential operation that submitted the renewal application and post it on the Licensing consumer website with the following information:

(A) The name, address, and phone number of the Licensing representative who will facilitate the hearing;

(B) The name and address of the general residential operation that submitted the renewal application;

(C) The date, time, and location of the hearing;

(D) A description of the population that the general residential operation currently serves, the services being provided (except for the provision of trafficking victim services), the number of children that the operation is currently licensed to serve, and the number of children the operation is currently serving; and

(E) A statement that the public hearing is for Licensing to receive public comments regarding the renewal of the general residential operation’s license; and

(4) Licensing will provide written procedures that Licensing has adopted to provide the public with a reasonable opportunity to offer public comments on any issues related to the renewal of the general residential operation's license, including how the hearing will be conducted, order of witnesses, and the conduct of participants at the hearing.

(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.

TITLE 26 HEALTH AND HUMAN SERVICES
 PART 1 HEALTH AND HUMAN SERVICES COMMISSION
 CHAPTER 745 LICENSING
 SUBCHAPTER L ENFORCEMENT ACTIONS
 DIVISION 1 OVERVIEW OF ENFORCEMENT ACTIONS

§745.8600. What is the general purpose of the rules in this subchapter?

(a) The rules in this subchapter contain:

(1) The different types of actions that we use to enforce the requirements in minimum standards, rules, and statutes; and

(2) The criteria that we use to determine what type of enforcement action we will take in specific circumstances.

(b) Our goal with respect to enforcement is to ensure the safety of children in care that is subject to our regulation. Our use of enforcement actions is tailored toward the objective of safety and not to be punitive in nature.

§745.8601. What happens if I am deficient in a minimum standard, rule, statute, specific term of my permit, or condition of probation?

If you are deficient in a minimum standard, rule, statute, specific term of your permit, or a condition of probation, we may take one or both of the following actions:

(1) Offer technical assistance; or

(2) Recommend or impose an enforcement action against your permit.

§745.8603. What enforcement actions may Licensing recommend or impose?

(a) We may recommend a voluntary plan of action or impose a more serious enforcement action as outlined in the following chart:

Figure: 26 TAC §745.8603(a)

Types of Enforcement Actions	Description
(1) Voluntary and Corrective Actions	These actions address your deficiency without requiring you to close. Listed family homes are not subject to voluntary or corrective actions. See also see Division 2 of this subchapter (relating to Voluntary and Corrective Actions).
(2) Adverse Actions	These actions address your deficiency and may require you to close or add permanent restrictions or conditions to your permit. See also Division 3 of this subchapter

Types of Enforcement Actions	Description
	(relating to Adverse Actions).
(3) Judicial Actions	A court may impose these actions, including closure, when we request a court order to address your deficiency. See also Division 4 of this subchapter (relating to Judicial Actions).
(4) Monetary Actions	These actions are fines or penalties that we may impose as provided by the Human Resources Code, §42.075 and §42.078. See also Division 5 of this subchapter (relating to Monetary Actions).

(b) We may impose an action listed in subsection (a) of this rule any time we determine there is a reason for imposing the action. We will choose the action based on its appropriateness in relation to the situation we are seeking to address. We do not have to recommend or impose a less restrictive action if we determine that a more restrictive action is more appropriate.

(c) In some situations, we may take multiple types of actions against your operation at the same time. For example, if you continue to operate pending the appeal of a denial, we may pursue a judicial action to prevent you from operating without a permit.

§745.8605. When can Licensing recommend or impose an enforcement action against my operation?

We can recommend or impose an enforcement action any time we find one of the following:

- (1) You supplied false information or made false statements during the application process;
- (2) You falsified or permitted to be falsified any record or other materials that are required to be maintained by minimum standards;
- (3) You do not have an acceptable reason for not having the required liability insurance in §745.251 of this chapter (relating to What are the acceptable reasons not to have liability insurance?);
- (4) You do not pay the required fees;
- (5) A single serious deficiency of a minimum standard, rule, or statute, including a finding of abuse or neglect or background check matches;
- (6) Several deficiencies that create an endangering situation;

- (7) A repetition or pattern of deficiencies;
- (8) An immediate threat or danger to the health or safety of children;
- (9) You or someone working at your operation refuses, prevents, or delays our ability to conduct an inspection or investigation, or the ability of the Department of Family and Protective Services to conduct an investigation of an allegation of abuse, neglect, or exploitation;
- (10) A failure to timely report necessary changes to Licensing;
- (11) A failure to comply with any restrictions or limits placed on your permit;
- (12) A failure to meet the terms and conditions of your probation;
- (13) A failure to comply with minimum standards, rules, or statutes at the end of the suspension period;
- (14) A failure to submit information to us within two days of a change in your controlling persons, as required in §745.903 of this chapter (relating to When and how must an operation submit controlling-person information to Licensing?);
- (15) You fail to correct by the compliance date any deficiency that is not pending due process.
- (16) You apply for a permit after we designate you as a controlling person, but before the designation is sustained;
- (17) It is within five years since your designation as a controlling person has been sustained;
- (18) You apply for a permit to operate a child care operation, and you are barred from operating a child care operation in another state;
- (19) You apply for a permit to operate a child care operation, and your permit to operate a child care operation in another state was revoked;
- (20) You apply for a permit to operate a child care operation, and your permit to operate was revoked, suspended, or terminated by another Texas state agency as outlined in Texas Government Code, Chapter 531, Subchapter W (relating to Adverse Licensing, Listing, or Registration Decisions);
- (21) You apply for a permit to operate a child care operation and:
 - (A) You fail to comply with public notice and hearing requirements as set forth in §745.277 of this chapter (relating to What will happen if I fail to comply with public notice and hearing requirements?); or
 - (B) The results of the public hearing meet one of the criteria set forth in §745.340(b) of this chapter (relating to What factors will we consider when evaluating an application for a permit?).

(22) You operate a **child care** operation, and that operation discharges or retaliates against an employee, client, resident, or other person because the person or someone on behalf of the person files a complaint, presents a grievance, or otherwise provides in good faith, information relating to the misuse of restraint or seclusion at the operation;

(23) A reason set forth in **Texas** Human Resources Code, §42.078;

(24) A failure to pay an administrative penalty under **Texas** Human Resources Code, §42.078;

(25) A failure to follow conditions or restrictions placed on a person's presence at an operation; or

(26) During the application process you were exempt from the public notice and hearing requirements **under §745.273(b)** of this **chapter** (relating to Which residential child-care operations must meet the public notice and hearing requirements?), but you never provide or cease to provide trafficking victim services **and fail to meet** the public notice and hearing requirements.

§745.8607. How will Licensing decide which type of enforcement action to recommend or impose?

We decide to recommend or impose enforcement actions based upon our assessment of the following:

(1) The severity of **any deficiency that is a reason for the enforcement action, including whether the deficiency involved the abuse or neglect or resulted in the death or near fatal injury of a child;**

(2) **The severity and frequency of a repetition or pattern of deficiencies;**

(3) **The extent to which a deficiency or repetition or pattern of deficiencies can be corrected;**

(4) How quickly **you can make the necessary correction** (for a suspension, whether the deficiency can be corrected within the suspension period);

(5) Whether you demonstrate the responsibility and ability to maintain compliance with minimum standards, rules, and **statutes;**

(6) Whether **we must impose conditions to** avoid further deficiencies;

(7) Your compliance history;

(8) The degree **or** immediacy of danger or threat of danger posed to the health or safety of children; **and**

(9) Any aggravating or mitigating factors.

§745.8609. How will I know when Licensing is recommending or imposing an enforcement action against my operation?

We will notify you in the following manner:

Figure: 26 TAC §745.8609

Type of Enforcement Action/Specific Action (if applicable)	Type of Notice
(1) Voluntary and Corrective Action	In writing at least 15 days before the start date of the voluntary plan of action or probation .
(2) Adverse Action	In writing, delivered in person, or by registered or certified mail that a specific type of adverse action is being taken against you and the start date of the action.
(3) Judicial Action	As required by the Rules of Civil Procedure for any hearings on judicial actions that we request a court to enforce.
(4) Monetary Action/Administrative Penalties	In writing at least 14 days after the recommendation for an administrative penalty is issued.
(5) Monetary Action/Civil Penalties	As required by the Rules of Civil Procedure for any hearings on civil penalties that we request a court to enforce.

§745.8611. How long do enforcement actions that cover a specific period of time last?

(a) The following chart describes the length of time that we may recommend or impose an enforcement action:

Figure: 26 TAC §745.8611(a)

Type of Enforcement Action/Specific Action	Period of Time
(1) Voluntary Action/Voluntary Plan of Action	Six months.
(2) Corrective Action/Probation	One year.
(3) Adverse	The suspension period will be the time we estimate is necessary to resolve the danger or threat of danger to

Type of Enforcement Action/Specific Action	Period of Time
Action/Suspension	the health or safety of children in your operation.

(b) The court will specify the timeframe for a Judicial Action/Temporary Restraining Order and any extensions.

(c) We may end a voluntary or corrective action early if we determine:

(1) That you meet minimum standards and any imposed conditions, and we are able to evaluate for ongoing compliance; or

(2) Your compliance does not improve and a more restrictive enforcement action is necessary.

§745.8613. What rights do I have to challenge an enforcement action?

(a) The rights you have vary depending upon the type of enforcement action that we recommend or take against you. The chart in this subsection describes your rights to challenge each type of enforcement action:

Figure: 26 TAC §745.8613(a)

Type of Enforcement Action/Specific Action (if applicable)	Rights to challenge an Enforcement Action
(1) Voluntary Action/Plan of Action	You may not challenge a plan of action, since it is voluntary.
(2) Corrective Action	If we decide to impose a corrective action, then you have a right to an administrative review regarding the entire action or any of the conditions imposed as part of the action.
(3) Adverse Action	If we decide to impose an adverse action, then you have a right to an administrative review and a due process hearing before the State Office of Administrative Hearings.
(4) Judicial Action	If we attempt to have the court impose a judicial action, then your rights are before the court.
(5) Monetary Action/Administrative	If we attempt to impose administrative penalties, then you have the right to a due process hearing

Type of Enforcement Action/Specific Action (if applicable)	Rights to challenge an Enforcement Action
Penalties	before the State Office of Administrative Hearings. Also see Texas Human Resources Code, §42.078 for your rights.
(6) Monetary Action/Civil Penalties	If we attempt to have the court impose civil penalties, then your rights are before the court.

(b) For additional information regarding administrative reviews and due process hearings, see Subchapter M of this chapter (relating to Administrative Reviews and Due Process Hearings).

TITLE 26 HEALTH AND HUMAN SERVICES
 PART 1 HEALTH AND HUMAN SERVICES COMMISSION
 CHAPTER 745 LICENSING
 SUBCHAPTER L ENFORCEMENT ACTIONS
 DIVISION 2 VOLUNTARY AND CORRECTIVE ACTIONS

§745.8631. What types of voluntary or corrective actions may Licensing recommend or impose?

We may recommend or impose the following types of voluntary or corrective actions:

Figure: 26 TAC §745.8631

Type of Enforcement Action/Specific Action	Description of Enforcement Action
(1) Voluntary Action/Plan of Action	A voluntary plan of action is a collaborative effort between Licensing and your operation. We will work with you to develop a plan to help you improve your operation's compliance with minimum standards and to reduce risk. We will inspect your operation more frequently to evaluate compliance with minimum standards.
(2) Corrective Action/Probation	If we place you on probation, then we will impose a corrective action plan. We will impose conditions beyond the minimum standards and the basic permit requirements in order to help you improve your operation's compliance with identified standards so that your operation is no longer deficient and you reduce risk at your operation. We will inspect your operation at least monthly to evaluate compliance with standards and conditions imposed as part of the corrective action plan.

§745.8633. When may Licensing recommend a voluntary plan of action?

(a) Based on our assessment of the criteria provided in §745.8607 of this subchapter (relating to How will Licensing decide which type of enforcement action to recommend or impose?), we may recommend a voluntary plan of action for your operation for an issue identified in §745.8605 of this subchapter (relating to When can Licensing recommend or impose an enforcement action against my operation?) if we determine that:

(1) You:

(A) Demonstrate the ability to identify risk;

- (B) Accept responsibility for correcting deficiencies; and
- (C) Have the ability to make corrections;

(2) If applicable, your operation has a history of making corrections to maintain compliance;

(3) Your operation can reduce risk by following the plan in addition to complying with minimum standards; and

(4) Your operation has not participated in a voluntary plan of action during the previous 12 months for similar issues.

(b) If you are responsible for multiple operations, we may consider your compliance history at any of those multiple operations when we use the factors listed in subsection (a) of this section to determine your eligibility to participate in a voluntary plan of action.

(c) We will impose a more restrictive enforcement action instead of recommending a voluntary plan of action when appropriate under the criteria for that enforcement action.

§745.8635. What requirements must I meet during a voluntary plan of action?

You must:

(1) Correct the deficiencies and reduce risk through your compliance with the plan of action; and

(2) Maintain compliance with all other minimum standards, rules, and statutes.

Note: Repealed §745.8635 as no longer necessary because "evaluation" as a type of enforcement action has been deleted by statute.

§745.8637. When may Licensing place my operation on probation?

(a) Based on our assessment of the criteria provided in §745.8607 of this subchapter (relating to How will Licensing decide which type of enforcement action to recommend or impose?), we may place your operation on probation for an issue identified in §745.8605 of this subchapter (relating to When can Licensing recommend or impose an enforcement action against my operation?) if we determine that:

(1) Your operation:

(A) Is eligible to participate in a voluntary plan of action, but you refuse to do so; or

(B) Does not qualify for a voluntary plan of action, including not meeting all of the requirements in §745.8633 of this division (relating to When may Licensing recommend a voluntary plan of action?);

(2) Your operation has not demonstrated the ability to make the necessary changes to reduce risk, but expresses a willingness to comply and make corrections;

(3) Your operation can reduce risk by complying with the conditions identified in the corrective action plan in addition to minimum standards; and

(4) A more restrictive enforcement action is not necessary to reduce risk.

(b) If you are responsible for multiple operations, we may consider your compliance history at any of those operations when we use the factors listed in subsection (a) of this section to determine your eligibility for probation.

(c) If we determine that you are not eligible for probation, we will consider imposing an adverse action.

Note: Repealed §745.8639 because content was incorporated into new §745.8635.

§745.8641. What requirements must I meet during the probation period?

You must:

(1) Comply with all of the conditions imposed by the corrective action plan;

(2) Correct the deficiencies and reduce risk;

(3) Unless you are an independent or agency foster family home, post the probation notice or copy in prominent places near all public entrances; and

(4) Maintain compliance with all other minimum standards, rules, and statutes.

§745.8643. What may Licensing do if my operation's compliance with minimum standards, rules, or statutes does not improve as a result of the voluntary plan of action or corrective action plan?

If your operation's compliance with minimum standards, rules, or statutes does not improve sufficiently to reduce risk at your operation as a result of the voluntary plan of action or corrective action plan, we will reevaluate your plan to determine the appropriateness of its terms and conditions. As a result, we may take one or more of the following actions:

(1) Recommend or impose additional conditions;

(2) Increase inspections; or

(3) Impose a more serious enforcement action.

TITLE 26 HEALTH AND HUMAN SERVICES
 PART 1 HEALTH AND HUMAN SERVICES COMMISSION
 CHAPTER 745 LICENSING
 SUBCHAPTER L ENFORCEMENT ACTIONS
 DIVISION 3 ADVERSE ACTIONS

§745.8649. What adverse actions may Licensing impose?

We may impose the following adverse actions:

Figure: 26 TAC §745.8649

Adverse Action	Description of Adverse Action
(1) Denial	You apply for a permit or an amendment of your permit, and we refuse to grant it.
(2) Adverse Amendment	After the issuance of your permit, we void your current permit and reissue a new permit with new or additional restrictions or conditions.
(3) Suspension	We take away your authority to operate for a specific period of time, so you can correct deficiencies. You must close your operation during a suspension.
(4) Revocation	We cancel your permit, and you must close.
(5) Refusal to Renew	We refuse to renew your license, certification, or registration, and you must close.

§745.8650. When may Licensing deny a permit?

Based on our assessment of the criteria provided in §745.8607 of this subchapter (relating to How will Licensing decide which type of enforcement action to recommend or impose?), we may deny you a permit for an issue identified in §745.8605 of this subchapter (relating to When can Licensing recommend or impose an enforcement action against my operation?) if we determine that:

(1) A background check result makes you ineligible for a permit, because either the result is ineligible for a risk evaluation or the Centralized Background Check Unit does not approve a risk evaluation as provided in Subchapter F of this chapter (relating to Background Checks);

(2) Your operation does not demonstrate the ability to comply with minimum standards, rules, and statutes during your initial permit period;

(3) The results of a public hearing make you ineligible for a permit;

(4) Your operation presents an immediate threat to the health or safety of

children; or

(5) You are otherwise ineligible for a permit because of a criterion identified in §745.8605 of this subchapter.

§745.8651. When may Licensing impose an adverse amendment on my permit?

Based on our assessment of the criteria provided in §745.8607 of this subchapter (relating to How will Licensing decide which type of enforcement action to recommend or impose?), we may impose an adverse amendment on your permit for an issue identified in §745.8605 of this subchapter (relating to When can Licensing recommend or impose an enforcement action against my operation?) if we determine that:

- (1) An amendment on your permit will reduce risk;
- (2) The amendment would be the most effective enforcement action to reduce risk at your operation; and
- (3) You will be able to follow the restrictions or conditions of the amendment.

§745.8652. When may Licensing suspend my permit?

Based on our assessment of the criteria provided in §745.8607 of this subchapter (relating to How will Licensing decide which type of enforcement action to recommend or impose?), we may suspend your permit for an issue identified in §745.8605 of this subchapter (relating to When can Licensing recommend or impose an enforcement action against my operation?) if we determine that:

- (1) Your operation will pose a danger or threat of danger to the health or safety of children in your operation's care until the issue is resolved;
- (2) You cannot correct the issue while children are in care, but you can do so during a specific period of time;
- (3) You can make the necessary corrections while your permit is suspended; and
- (4) There are no additional concerns about your compliance history that would make revocation a more appropriate enforcement action for the health or safety of children.

§745.8653. What happens when my suspension period ends?

(a) When your suspension period ends, we will assess whether:

- (1) You have resolved all the issues that were the basis for the suspension;
- (2) There are any new issues identified in §745.8605 of this subchapter (relating to When can Licensing recommend or impose an enforcement action against my operation?); or
- (3) There is any unresolved issue or new issue that would pose a danger or

threat of danger to the health or safety of children in your care.

(b) Following our assessment, we may either end the suspension or take any further enforcement action as described in this subchapter.

Note: Repealed §745.8653 because the content was changed in new §745.8653.

§745.8654. When may Licensing revoke my permit?

Based on our assessment of the criteria provided in §745.8607 of this subchapter (relating to How will Licensing decide which type of enforcement action to recommend or impose?), we may revoke your permit for an issue identified in §745.8605 of this subchapter (relating to When can Licensing recommend or impose an enforcement action against my operation?) if we determine that:

(1) Your operation is ineligible for corrective action;

(2) We cannot reduce the risk at your operation by placing your operation on probation or suspending your permit;

(3) A background check result or a finding of abuse or neglect makes you ineligible for a permit, either because the result is ineligible for a risk evaluation or the Centralized Background Check Unit will not approve a risk evaluation as provided in Subchapter F of this chapter (relating to Background Checks); or

(4) Revocation is otherwise necessary to address the issue identified in §745.8605 of this subchapter.

§745.8655. When may Licensing refuse to renew my permit?

(a) Based on our assessment of the criteria provided in §745.8607 of this subchapter (relating to How will Licensing decide which type of enforcement action to recommend or impose?), we may refuse to renew your permit for an issue identified in §745.8605 of this subchapter (relating to When can Licensing recommend or impose an enforcement action against my operation?) if we:

(1) Cannot take another type of enforcement action because:

(A) Your operation is ineligible for corrective action; or

(B) The action would not resolve the issue or reduce risk at your operation;

(2) Determine that a background check result or a finding of abuse or neglect makes you ineligible for a permit, either because the result is ineligible for a risk evaluation or the Centralized Background Check Unit does not approve a risk evaluation as provided in Subchapter F of this chapter (relating to Background Checks); or

(3) Otherwise refuse to renew your permit to address the issue identified in §745.8605 of this subchapter.

(b) We may refuse to renew your permit at any point before or after the renewal

period expires. For example, if there is a finding of abuse or neglect that makes you ineligible for a permit, then we may refuse to renew your permit before the expiration of your permit.

(c) The basis for refusing to renew your permit may be based on grounds that occurred before or after the renewal period expires.

(d) If we are:

(1) Refusing to renew your permit, we do not also have to revoke your permit; or

(2) Revoking your permit before or after the renewal period expires, we do not also have to refuse to renew your permit.

(e) You are entitled to an administrative review and a due process hearing if we refuse to renew your permit. You may continue to operate pending the outcome of the administrative review and due process hearing unless we determine the operation poses an immediate threat or danger to the health or safety of children.

(f) For other rules relating to renewals, see Division 12 of Subchapter D (relating to Permit Renewal).

Note: Repealed §745.8655 because the content was incorporated into new §745.8656.

§745.8656. Are there any notice requirements when Licensing attempts to take adverse action against my operation?

(a) You must post the notice of the adverse action or a copy in prominent places near each public entrance. You must post this notice as soon as you receive it.

(b) You must notify the parents of each child in your care that we are attempting to take adverse action. You must send a copy of the notice of the adverse action from us to the parents within five days of your receipt of the notice. You must send the notice by certified mail and give us a copy of each return receipt (the green card) within five days after the receipt is returned to you.

(c) Neither of these notice requirements apply to:

(1) A denial; or

(2) An adverse amendment.

§745.8657. Whom may Licensing inform when attempting to deny, suspend, revoke, or refuse to renew my permit?

(a) The fact that we are attempting to deny, suspend, revoke, or refuse to renew your permit is available to the public.

(b) We will inform the following that we are attempting to suspend, revoke, or refuse to renew your permit:

(1) The Texas Workforce Commission Local Workforce Board or the Child and Adult Care Food Program, if you are a child day-care operation participating in that program;

(2) The Department of Family and Protective Services (DFPS), if you are a residential child care operation who cares for a child in DFPS conservatorship; or

(3) Any other state or federal program or agency, as appropriate.

(c) When we inform a program or agency under subsection (b), we will include whether you may care for children pending any due process.

Note: Repealed §745.8657 because the content was incorporated with additional information into a reorganized and new §745.8657.

§745.8659. Will there be any publication of the denial, suspension, revocation, or refusal to renew my permit?

(a) If you waive the administrative review and due process hearing or if the denial, suspension, revocation, or refusal to renew your permit is upheld in the process, we will publish a notice of the adverse action taken against you on the Licensing consumer website along with other information regarding your child-care services.

(b) In addition, we will send notification of the outcomes of the administrative review and the due process hearing to those state and federal programs or agencies that we previously informed of the adverse action.

§745.8661. What notice must I provide parents when the denial, suspension, revocation, or refusal to renew my permit is final?

If you are operating at the time you receive the final notice, you must notify the parents of each child that is enrolled of the denial, suspension, revocation, or refusal to renew your permit. You must send notice of this action to the parents by certified mail within five days of the receipt of the notice of the denial, suspension, revocation, or refusal to renew.

TITLE 26 HEALTH AND HUMAN SERVICES
 PART 1 HEALTH AND HUMAN SERVICES COMMISSION
 CHAPTER 745 LICENSING
 SUBCHAPTER L ENFORCEMENT ACTIONS
 DIVISION 4 JUDICIAL ACTIONS

§745.8681. What judicial actions may Licensing impose?

Only courts may impose judicial actions. The judicial actions we may ask the court to order include the following:

Figure: 26 TAC §745.8681

Judicial Action	Description of Judicial Action
(1) Temporary Restraining Order (TRO)	We file suit in district court requesting the court to order the immediate closure of your operation. The TRO is valid for 14 days unless otherwise specified in the Order.
(2) Temporary or Permanent Injunction	We file suit in district court requesting the court to set a hearing for the temporary or permanent closure of your operation. We usually file a request for a temporary or permanent injunction at the same time we file the request for a TRO. The court will set a time for a hearing to determine whether you should continue to operate.

§745.8683. Whom may Licensing inform when taking a judicial action against my operation?

(a) The fact that we are taking a judicial action against your operation is available to the public.

(b) We will inform the following that we are taking a judicial action against your operation:

(1) The Texas Workforce Commission Local Workforce Board or the Child and Adult Care Food Program, if you are a child day-care operation participating in that program;

(2) The Department of Family and Protective Services (DFPS), if you are a residential child care operation who cares for a child in DFPS conservatorship; or

(3) Any other state or federal program or agency, as appropriate.

(c) When we inform a program or agency under subsection (b) of this section, we will include whether:

(1) We have obtained a temporary restraining order preventing your operation from caring for children;

(2) We are attempting to extend the order or make it permanent; and

(3) Your operation may care for children pending a final hearing in the matter.

Note: Repealed §745.8683 because the content was incorporated into a reorganized and new §745.8683.

§745.8685. What steps must I take regarding children in my care when a court orders me to close my operation immediately?

(a) When a court orders you to close your operation immediately:

Figure: 26 TAC §745.8685(a)

If your operation is:	You must immediately notify parents that they must:
(1) A child day-care operation,	Pick up their children as soon as possible.
(2) A residential child-care operation,	Make other arrangements for their child's care as soon as possible. If a state agency such as the Department of Family and Protective Services or the Texas Juvenile Justice Department placed a child in your operation, you must notify that agency.

(b) In addition to notifying the parents as required in subsection (a) of this section, within five days of delivery of the temporary restraining order (TRO) you must inform the parents of each child in care or enrolled in the operation of the reason for the closure and the length of the closure by:

(1) Sending to each parent a copy of the TRO by certified mail and giving us a copy of each return receipt (the green card) within five days after the receipt is returned to you; or

(2) Delivering a copy of the TRO in person to the parents when the child is picked up from your care and giving us a copy of an acknowledgment of receipt of the TRO that the parents signed.

§745.8687. Will there be any type of publication of the judicial action taken against me?

Yes, once there is a final court order, we will publish a notice of the judicial action taken against you on Licensing's consumer website. In addition, we will send notifications of the outcome of the final judicial action to those state and federal programs or agencies that we had previously informed of the judicial action.

TITLE 26 HEALTH AND HUMAN SERVICES
 PART 1 HEALTH AND HUMAN SERVICES COMMISSION
 CHAPTER 745 LICENSING
 SUBCHAPTER L ENFORCEMENT ACTIONS
 DIVISION 5 MONETARY ACTIONS

§745.8711. What monetary actions may Licensing impose?

We may impose administrative penalties or ask the court to order civil penalties, which are described below:

Figure: 26 TAC §745.8711

Monetary Actions	Description of Action
(1) Administrative Penalties	We impose these fines against you for certain deficiencies as provided by Texas Human Resources Code (HRC), §42.078. Except as provided in §745.8713 of this division (relating to When may Licensing impose a monetary penalty before a corrective action?) and when appropriate, we must impose nonmonetary administrative sanctions including corrective actions before administrative penalties. We may proceed to adverse actions without imposing administrative penalties when we determine the deficiency is serious enough to warrant such action. See the statute for more detailed information.
(2) Civil Penalties	We ask the court to assess civil penalties against you for certain deficiencies as provided by HRC, §42.075. See the statute for more detailed information.

§745.8713. When may Licensing impose an administrative penalty before a corrective action?

(a) We may impose an administrative penalty before imposing a corrective action any time we find a deficiency of a high risk minimum standard, including a deficiency for:

- (1) The abuse, neglect, or exploitation of a child;
- (2) A safety hazard standard;
- (3) A safe sleeping standard;

(4) Any standard establishing times for reporting information to a parent or Licensing;

(5) A supervision standard; or

(6) One of the following background check standards:

(A) A failure to timely submit the information required to conduct a background check under Subchapter F of this chapter (relating to Background Checks) on two or more occasions;

(B) You knowingly allow a person to be present at your operation before you receive notification from the Centralized Background Check Unit (CBCU) that a person is eligible, eligible with conditions, or provisionally eligible with conditions to be present at your operation;

(C) You knowingly allow a subject of a background check to be present at your operation after you have received notification from the CBCU that the subject is ineligible to be present at your operation; or

(D) You violate a condition or restriction that the CBCU has placed on the subject of a background check at your operation as part of the CBCU background check determination.

(b) For more information regarding deficiencies that may result in an administrative penalty, go to the Child Care Regulation Enforcement Actions page on hhs.texas.gov.

§745.8714. What penalty amounts must Licensing recommend for certain deficiencies?

(a) Except for subsection (b) of this section, an administrative penalty for a deficiency is based on the maximum number of children the operation is authorized to provide care for or the number of children under the care of a child-placing agency, and may not exceed the following amounts:

(1) For deficiencies that occur in a child day-care operation:

Figure: 26 TAC §745.8714(a)(1)

Number of Children	Maximum Amount of Penalty
20 or less	\$50
21 - 40	\$60
41 - 60	\$70
61 - 80	\$80
81 - 100	\$100

Number of Children	Maximum Amount of Penalty
More than 100	\$150

(2) For deficiencies that occur in a residential child-care operation:

Figure: 26 TAC §745.8714(a)(2)

Number of Children	Maximum Amount of Penalty
20 or less	\$100
21 – 40	\$150
41 – 60	\$200
61 – 80	\$250
81 – 100	\$375
More than 100	\$500

(b) For the following deficiencies, Licensing must recommend the following penalty amounts:

Figure 26 TAC §745.8714(b)

Type of Deficiency:	Amount of Penalty:
(1) Abuse, neglect, or exploitation of a child, excluding any such deficiency in a residential child care operation when subsection (a) of this section should be followed.	\$1,000
(2) Failure to timely report to a parent that a child was injured and required medical treatment by a health-care professional or a child was ill and required hospitalization.	\$500
(3) Failure to timely report to a parent of each child in care that a child in your care was abused, neglected, or exploited.	\$50
(4) Failure to timely report to a parent of each child in care that your operation had a deficiency in a safe sleeping standard.	\$50

Type of Deficiency:	Amount of Penalty:
(5) Failure to timely report to a parent of each child in care that the operation does not maintain the required liability insurance coverage.	\$50

(c) For a penalty that Licensing assesses under subsection (a) of this section, Licensing may assess the penalty for each day the deficiency occurs.

(d) For penalty that Licensing assesses under subsections (b)(3) – (b)(5), Licensing must recommend \$50 for the initial deficiency and an additional \$50 for each day the deficiency continues to occur.

§745.8715. When may Licensing impose an administrative penalty against a controlling person?

We may impose an administrative penalty against a controlling person when the controlling person:

- (1) Violates a term of a license or registration;
- (2) Makes a statement about a material fact that the person knows or should know is false:
 - (A) On an application for the issuance of a license or registration or an attachment to the application; or
 - (B) In response to a matter under investigation;
- (3) Refuses to allow a representative of Licensing to inspect:
 - (A) A book, record, or file required to be maintained by the child care operation; or
 - (B) Any part of the premises of the child care operation;
- (4) Purposefully interferes with the work of a Licensing representative or the enforcement of Texas Human Resources Code (HRC), Chapter 42; or
- (5) Fails to pay a penalty assessed under HRC, Chapter 42, on or before the date the penalty is due as determined under HRC §42.078.

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 PLANS AND POLICIES REQUIRED FOR THE APPLICATION
PROCESS

§748.101. What plans must I submit for Licensing's approval as part of the application process?

In addition to the relevant application forms required by §745.243 of this title (relating to What does a completed application for a permit include?), as part of the application process, you must submit the following plans to us for approval:

(1) A business plan that includes:

(A) The location and telephone numbers of all your general residential operations; and

(B) A list of persons or officers and their titles that comprise the governing body, if applicable;

(2) A fiscal plan that includes:

(A) A detailed estimate of the operating costs of the operation for the first three months;

(B) Documentation of reserve funds or available credit at least equal to operating costs for the first three months;

(C) An estimated 12-month budget of income and expenses; and

(D) Predictable funds sufficient for the first year of operation;

(3) A sketch of the operation's floor plan showing the dimensions and the purpose of all rooms and specifying where children and caregivers, if applicable, will sleep; and

(4) An emergency evacuation and relocation plan that complies with Division 6 of Subchapter O (relating to Emergency Evacuation and Relocation).