



# Background Checks

## Abbreviated Overview of Rule Changes

### Licensed Child Care Operations

### Overview of Changes

This document provides licensed child care centers, school-age programs, and before and after-school programs with an abbreviated overview of the rule changes related to background check requirements that become effective on January 13, 2019.

### Who Needs a Background Check?

This table describes people who need background checks (§745.605) and divides those people into groups. Please note that the list of people who require a background check remains substantially the same. The chart on page 4 of this document describes the types of checks each group requires.

Group A	Description
Owners	Includes: <ol style="list-style-type: none"> <li>1. Sole proprietors;</li> <li>2. Each partner in a partnership; and</li> <li>3. A board member or officer in a governing body who is involved in the development of policies that address Licensing requirements, the everyday running of the operation, or submitting background check requests for the operation.</li> </ol>
Employees and Prospective Employees	Includes: <ol style="list-style-type: none"> <li>1. Directors;</li> <li>2. Caregivers and prospective caregivers;</li> <li>3. Any other employees or prospective employees; and</li> <li>4. Substitute employees, unless the organization providing the substitute has provided you a copy of the substitute's background check determination, issued within the past 5 years, that allows the substitute to be present at an operation.</li> </ol>

Group A	Description
<p>A person 14 years or older, who:</p> <ol style="list-style-type: none"> <li>1. Is counted in the child/caregiver ratio;</li> <li>2. Has unsupervised access to children in care; or</li> <li>3. Provides direct care or supervision to children in care</li> </ol>	<p>Includes:</p> <ol style="list-style-type: none"> <li>1. A contract employee;</li> <li>2. A self-employed person; and</li> <li>3. A volunteer (except if the volunteer is only present to supplement the child/caregiver ratio for a field trip or water activity).</li> </ol>

Group B	Description
<p>A person 14 years or older, who is regularly or frequently present at an operation</p>	<p>Includes a person, including a volunteer, who is regularly or frequently present at the operation, if the person is present at the operation:</p> <ul style="list-style-type: none"> <li>• on a scheduled basis; or</li> <li>• visits the operation three or more times in a 30-day period (multiple visits to the operation on the same day is considered one visit).</li> </ul> <p>If a person is counted in the child/caregiver ratio, has unsupervised access to children, or provides direct care or supervision to children in care, the person is in Group A.</p>

Group C	Description
<p>A person who has lived outside the state of Texas in the past 5 years</p>	<p>Includes a person who:</p> <ul style="list-style-type: none"> <li>• meets one of the categories in Group A or B; <b>and</b></li> <li>• has lived out of state in the past 5 years.</li> </ul> <p>Excludes people in Group D.</p>

Group D	Description
A person who does not require a background check	<p>Includes:</p> <ol style="list-style-type: none"> <li>1. A parent or volunteer who only supplements the child/caregiver ratio during field trips or water activities;</li> <li>2. A parent or volunteer who is only at the operation to visit their child, drop off or pick up their child, eat lunch with their child, or observe or console their child (§745.601(15)(C));</li> <li>3. A professional who is licensed or is required to have a background check to meet compliance with another governmental entity's requirements, so long as you do not employ or contract with the professional, the professional is only present in an official capacity, and you obtain written parental consent before allowing the professional to have unsupervised access to the child; and</li> <li>4. A controlling person who does not fulfill a role specified in Group A or B.</li> </ol>

## What Types of Background Checks Are Required?

This table indicates which types of background checks are currently required and what types of background checks will be required on January 13, 2019. (§§745.609; 745.611; 745.613)

Please note that a person in Group A and Group B become part of Group C if the person has lived out of state in the past five years. The primary difference between current and new requirements are:

- people who have lived out of state in the past 5 years must also have out-of-state child abuse and neglect, criminal history, and sex offender registry checks (§745.613); and
- the renewal frequency for people who have had fingerprint checks is every **5 years** instead of every 2 years (§745.621).

What Types of Background Checks Are Required? ✓ = required background check, X = not required						
	Group A		Group B		Group C	
	Before 1/13/19	As of 1/13/19	Before 1/13/19	As of 1/13/19	Before 1/13/19	As of 1/13/19
<b>Texas Central Registry</b>	✓	✓	✓	✓	✓	✓
<b>FBI Fingerprint Based Criminal History</b>	✓	✓	X	X	✓	✓
<b>DPS Name-Based Criminal History (Texas Only)</b>	X	X	✓	✓	X	X
<b>Out-of-State Child Abuse and Neglect Check</b>	X	X	X	X	X	✓
<b>Out-of-State Criminal History Check</b>	X	X	X	X	X	✓
<b>Out-of-State Sex Offender Registry Check</b>	X	X	X	X	X	✓
<b>Renewal Frequency</b>	2 years	5 years	2 years	2 years	2 years	5 years

## What are my responsibilities?

Responsibility	Details
Submitting background checks	<p>You must submit requests for background checks through your online Child Care Licensing Account. Other methods of submission will not be accepted. (§745.617)</p> <p>Please note that the information you enter must be complete and accurate when you click submit. (§745.619) If you reenter a background check because your first submission was incorrect, you will be charged \$2 for each submission.</p>
Receive notification from CBCU before allowing a person to work or be present at your operation	You must receive notification from CBCU that a person is eligible or eligible with conditions before the person can work or be present at the operation. Except, the person may be present at the operation for the sole purpose of attending orientation or pre-service training, as long as the person does not have contact with children in care. (§745.641)
Adhere to conditions placed on a person's presence at the operation	If CBCU informs you that a person is eligible to be at your operation only under certain conditions, you must ensure the person follows the conditions CBCU placed on the person. (§§745.635; 745.637)
Remove a person who is ineligible to be at your operation	If CBCU informs you that a person is <i>ineligible</i> to be at your operation, you must not allow the person to be present. (§745.635)
Inactivate a person's role	When a person changes roles (e.g. a volunteer is hired to become a caregiver) or is no longer associated with your operation (e.g. a person leaves employment, is no longer a volunteer, is not hired, etc.), you must inactivate the person's role/association with your operation. You may complete this task through your online Child Care Licensing Account. (§745.651)

Responsibility	Details
Validate your person list	At least once every 3 months you must validate that the list of people associated with your operation is accurate. You must complete this task through your online Child Care Licensing Account. (§745.651)

### **What are the responsibilities of the person who is the subject of the background check?**

Responsibility	Details
Schedule and attend appointment to submit fingerprints for FBI Fingerprint Based Criminal History check	CBCU will notify a person in Group A and C with information on how to schedule an appointment to submit fingerprints with the approved fingerprinting vendor. It is the person's responsibility to schedule and attend the appointment. (§745.623)
Requesting out-of-state checks	A person in Group C must request the criminal and abuse/neglect check in each state where the person lived in the previous 5 years. (§745.613)
Submitting a risk evaluation request	If CBCU informs the person that he or she is eligible for a risk evaluation, the person is responsible for submitting the risk evaluation request to CBCU. (§§745.681; 745.683; 745.685; 745.687)