

Regulations for All Types of Child Care in Texas

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

40 TAC § 745.201
Tex. Admin. Code tit. 40, § 745.201

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

These words have the following meanings:

(1) Nearby--For child day-care operations, "nearby" means next to, across the street from, or in the same city block. For residential child-care operations, "nearby" means across the street from, in the same city block, or on the same property.

(2) Newspaper of general circulation--A community's own newspaper, or if this is not available, a newspaper purporting to serve the community, or the daily newspaper of the nearest metropolitan area.

40 TAC § 745.211
Tex. Admin. Code tit. 40, § 745.211

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

The application process includes:

(1) The pre-application interview;

(2) The submission of the application materials;

(3) Public notice and hearing requirements for residential child-care operations;

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

(5) Accepting the application as complete, or returning it if incomplete; and

(6) The decision to issue or deny a permit.

40 TAC § 745.213
Tex. Admin. Code tit. 40, § 745.213

§ 745.213. What is the purpose of the pre-application interview?

The pre-application interview teaches applicants about the application process, the licensing requirements, and the administrative procedures.

40 TAC § 745.215
Tex. Admin. Code tit. 40, § 745.215

§ 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 orientation class;

(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.

40 TAC § 745.241
Tex. Admin. Code tit. 40, § 745.241

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

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.

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

40 TAC § 745.243
 Tex. Admin. Code tit. 40, § 745.243

§ 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: 40 TAC §745.243

Type of Application	Required Application Materials
(1) Application for Listing a Family Home	(A) A completed Listing Request Form; (B) A completed Request for Criminal History and Central Registry Check Form on all applicable persons. See Subchapter F of this chapter (relating to Background Checks); (C) A completed Controlling Person Form as set forth in Subchapter G of this chapter (relating to Controlling Person and Certain Employment Prohibited); and (D) The listing fee, if applicable.
(2) Application for Registering a Child-Care Home	(A) A completed Registration Request Form; (B) A completed Request for Criminal History and Central Registry Check Form on all applicable persons. See Subchapter F of this chapter; (C) A completed Controlling Person Form as set forth in Subchapter G of this chapter; (D) A notarized Affidavit for Applicants for Employment with a Child-Care Facility or Registered Child-Care Home Form for any employee of the registered child-care home or any applicant you intend to hire; (E) Proof of current certification in infant/child/adult CPR; (F) Proof of current certification in first aid, which must include rescue breathing and choking; (G) The registration fee; (H) Verification that the applicant completed the required orientation within one year prior to the date of application; and (I) Proof of a high school diploma or high school equivalent.
(3) Application for Licensing a Child Day-Care Operation	(A) A completed Child Day-Care Licensing Application Form; (B) A floor plan of the building and surrounding space to be used, including dimensions of the indoor and outdoor space; (C) A completed Governing Body/Director Designation Form. This form is not required if the governing body is a sole proprietorship and the proprietor is also the director. (D) Completed background checks on all applicable persons. See Subchapter F of this chapter. (E) A completed Personal History Statement Form for each applicant that is a sole proprietor or partner, and all persons designated as director or co-director; (F) A completed Controlling Person Form as set forth in Subchapter G of this chapter; (G) 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 title (relating to How do I demonstrate that the governing body is not delinquent in paying the franchise tax?); (H) Except for licensed child-care homes, proof of liability insurance or documentation that the applicant is unable to obtain liability insurance and a copy of the written notice informing the parents that there is no insurance coverage. For further information on liability insurance, see §745.249 and §745.251 of this title (relating to What insurance coverage must I have for my licensed operation? and What are acceptable reasons for not obtaining liability insurance?); (I) A completed Plan of Operation for Licensed Facilities Form. The plan of operation must show how you plan to comply with the minimum standards; (J) The application fee; and (K) The initial license fee.

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

<p>(4) Application for a Compliance Certificate for a Shelter Care Operation</p>	<p>(A) A completed Shelter Child Care Application Form. 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; (B) Completed background checks on all applicable persons; (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 title; and (D) The application fee.</p>
<p>(5) Application for a Compliance Certificate for an Employer-Based Child Care Operation</p>	<p>(A) A completed Employer-Based Child Care Application Form; (B) A floor plan of the building and surrounding space to be used, including dimensions of the indoor and outdoor space; (C) Completed background checks on all applicable persons as required for licensed child-care centers. See Subchapter F of this chapter; (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 title; and (E) The application fee.</p>
<p>(6) Application for Licensing a Residential Child-Care Operation including a Child-Placing Agency</p>	<p>(A) A completed Application for a License to Operate a Residential Child-Care Facility, or Child-Placing Agency; (B) A floor plan of the building and surrounding space to be used, including dimensions of the indoor space; (C) Completed background checks on all applicable persons. See Subchapter F of this chapter; (D) A completed Controlling Person Form as set forth in Subchapter G of this chapter; (E) A completed Personal History Statement Form for each applicant that is a sole proprietor or partner, unless you are a licensed administrator; (F) 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 title; (G) Proof of liability insurance or documentation that the applicant is unable to obtain liability insurance and a copy of the written notice informing the parents that there is no insurance coverage. For further information on liability insurance, see §745.249 and §745.251 of this title; (H) Policies, procedures, and documentation required by minimum standard rules; (I) The application fee; and (J) The initial license fee, if applicable.</p>

<p>(7) Application for Certifying a Child Day-Care Operation</p>	<p>(A) A completed Child Day-Care Licensing Application Form; (B) A floor plan of the building and surrounding space to be used, including dimensions of the indoor and outdoor space; (C) A completed Governing Body/Director Designation Form; (D) Completed background checks on all applicable persons. See Subchapter F of this chapter; (E) A completed Personal History Statement Form for all persons designated as director or co-director; (F) A completed Controlling Person Form as set forth in Subchapter G of this chapter; and (G) A completed Plan of Operation for Licensed Facilities Form. The plan of operation must show how you plan to comply with the minimum standards.</p>
<p>(8) Application for Certifying a Residential Child-Care Operation including a Child-Placing Agency</p>	<p>(A) A completed Application for a License to Operate a Residential Child-Care Facility, or Child-Placing Agency; (B) A floor plan of the building and surrounding space to be used, including dimensions of the indoor space; (C) Completed background checks on all applicable persons. See Subchapter F of this chapter; (D) A completed Controlling Person Form as set forth in Subchapter G of this chapter; (E) A completed Personal History Statement Form for each applicant that is a sole proprietor or partner, unless you are a licensed administrator; and (F) Policies, procedures, and documentation required by minimum standard rules.</p>

40 TAC § 745.245
 Tex. Admin. Code tit. 40, § 745.245

§ 745.245. How do I demonstrate that the governing body is not delinquent in paying the franchise tax?

If the governing body is a for-profit corporation or a limited liability company, then you must submit:

- (1) The governing body's most recent Franchise Tax Certificate of Good Standing; or
- (2) The Articles of Incorporation if the corporation or company has not existed long enough to owe the tax at the time of the application; or
- (3) Documented proof that Texas Tax Code, Chapter 171, exempts the corporation or company from paying the tax.

40 TAC § 745.247
 Tex. Admin. Code tit. 40, § 745.247

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

§ 745.247. What happens if the governing body is delinquent in paying the tax after receiving a permit from Licensing?

A permit holder must immediately forward us a copy of any written notice from any governmental entity indicating that the holder's corporate privileges are forfeited and/or in danger of forfeiture. We may suspend a permit held by a governing body that forfeits its corporate privileges. The suspension will end if the forfeiture is set aside and the corporate privileges are revived as set forth in the Texas Tax Code. We may revoke the permit held by a governing body that does not forward to us a copy of forfeiture notice and loses its corporate privileges.

40 TAC § 745.249
Tex. Admin. Code tit. 40, § 745.249

§ 745.249. What insurance coverage must I have for my licensed operation?

You must obtain liability insurance coverage for injury to a child that occurs while the child is in your care or on the premises of the operation in the amount of at least \$300,000 for each occurrence of negligence. We do not require a certified operation or licensed child-care home to have liability insurance.

40 TAC § 745.251
Tex. Admin. Code tit. 40, § 745.251

§ 745.251. What are acceptable reasons for not obtaining liability insurance?

Acceptable reasons are:

- (1) Financial reasons;
- (2) Lack of availability of an underwriter willing to issue a policy; or
- (3) Exhaustion of policy limits.

40 TAC § 745.253
Tex. Admin. Code tit. 40, § 745.253

§ 745.253. How does not obtaining liability insurance affect my application for a permit?

If you do not obtain liability insurance, you must submit with your application a written explanation of why you do not provide the insurance coverage. You must also send us a sample letter or pamphlet with which you plan to inform parents that you do not provide the coverage. If we do not agree with your explanation, we may instruct you to obtain the insurance before we will issue you a permit. If we approve your explanation, we may issue you a permit if you meet the other application requirements. Once you get your permit, you must notify all of the parents of the children in care prior to or at the time each child is enrolled in care that you do not provide insurance coverage.

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

40 TAC § 745.271
Tex. Admin. Code tit. 40, § 745.271

§ 745.271. After Licensing accepts my application, must I meet any additional requirements before Licensing may approve my application?

Some residential child-care operations must meet the public notice and hearing requirements.

40 TAC § 745.273
Tex. Admin. Code tit. 40, § 745.273

§ 745.273. Which residential child-care operators must meet the public notice and hearing requirements?

(a) All independent foster family or foster group home operations applying for a permit to operate or requesting to amend their permit to increase capacity and any child-placing agency planning to verify an agency foster family or foster group home must meet the public notice and hearing requirements if:

(1) These homes are in counties with a population of less than 300,000; and

(2) The foster home is not the actual residence of the foster family.

(b) All other residential child-care operations applying for a permit to operate or requesting to amend their license to increase capacity must meet the public notice and hearing requirements if they are located in a county with a population of less than 300,000.

40 TAC § 745.275
Tex. Admin. Code tit. 40, § 745.275

§ 745.275. What are the specific requirements for a public notice and hearing?

The following chart lists the public notice, hearing requirements, and subsequent report you must complete:

<p>(3) Report of Public Comment from the Community to be Completed</p>	<p>Within ten work days of the hearing, you must submit to us the verbatim record of the hearing and a public comment summary report with the following documentation:</p> <p>(A) That you gave the school district superintendent, local law enforcement, and the governing body of the community an opportunity to comment on the application;</p> <p>(B) Your responses to any negative comments;</p> <p>(C) 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>(D) 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>(E) The impact of the proposed services on the community and the effect on opportunities for social interaction for the children proposed to be served by the applicant, including social and youth groups, spiritual and religious organizations, and youth employment groups or agencies; and</p> <p>(F) Any other documentation available to support the position of the report.</p>
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40 TAC § 745.277

Tex. Admin. Code tit. 40, § 745.277

§ 745.277. What will happen if I fail to comply with public notice and hearing requirements?

If you fail to comply with any one of the public notice and hearing requirements that are set forth under § 745.273 of this title (relating to Which residential child-care operations must meet the public notice and hearing requirements?) and § 745.275 of this title (relating to What are the specific requirements for a public notice and hearing?), we may do the following, as applicable:

(1) Deny you a permit;

(2) Deny you an amendment to your permit to increase capacity;

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

(3) Prohibit you from verifying the agency home; or

(4) Invalidate the verification of the agency home.

**40 TAC § 745.279
Tex. Admin. Code tit. 40, § 745.279**

§ 745.279. How may the results of a public hearing affect my application for a permit or a request to amend my permit?

We may deny you a permit or an amendment to increase capacity 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 your permit would significantly increase 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 increase would adversely affect the children that you propose to serve; or

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

**40 TAC § 745.281
Tex. Admin. Code tit. 40, § 745.281**

§ 745.281. How may the results of a public hearing affect my ability to verify an agency foster home or agency foster group home?

We may prohibit you from verifying the proposed agency foster home or agency group foster home if we determine that:

(1) The community has insufficient resources to support the children that the home would serve;

(2) The home would significantly increase 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 increase would adversely affect the children that the home would serve; or

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

(3) The home would have a significant adverse impact on the community and would limit opportunities for social interaction for the children that the home would serve.

**40 TAC § 745.301
Tex. Admin. Code tit. 40, § 745.301**

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

(a) For all types of permits other than employer-based child care, we have 21 days after receiving your application for a permit to review the paperwork. After the review, we will notify you in writing that your application is either:

(1) Complete and accepted for processing; or

(2) Incomplete, and/or the materials submitted do not show compliance with relevant statutes, rules, and minimum standards. The notification letter will explain what is needed to complete the application and/or why your materials do not show compliance.

(b) For an employer-based child-care permit, we have 10 days after receiving your application for a permit to review the paperwork. After the review, we will notify you in writing that your application is either:

(1) Complete and accepted for processing; or

(2) Incomplete, and/or the materials submitted do not show compliance with relevant statutes or rules. The notification letter will explain what is needed to complete the application and/or why your materials do not show compliance.

**40 TAC § 745.303
Tex. Admin. Code tit. 40, § 745.303**

§ 745.303. How many chances do I have to submit all of the required information?

You have three times to submit all required material. If we return your application as incomplete three times, you may not apply again until one year from the date that we returned your last application as incomplete.

**40 TAC § 745.321
Tex. Admin. Code tit. 40, § 745.321**

§ 745.321. What will Licensing do after accepting my application?

After we accept your application, our process of deciding to issue or deny varies depending on the type of permit you requested. For example, we must conduct an on-site inspection before issuing a compliance certificate, registration, or license to determine compliance with licensing minimum standards, rules, and/or statutes. However, unless you are applying for an employer-based child-care permit, we will decide to issue or deny the permit no later than two months after we accept your application. For an employer-based child-care permit, we will decide to issue or deny the permit no later than 30 days after we accept your application.

40 TAC § 745.323

Tex. Admin. Code tit. 40, § 745.323

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

You may file a complaint with the Assistant Commissioner for Child-Care Licensing. The Assistant 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.

40 TAC § 745.325

Tex. Admin. Code tit. 40, § 745.325

§ 745.325. How do I file a complaint?

You must send a written request within 30 days after our time limit expires. You must send your request stating the nature of the dispute to the Assistant Commissioner for Child-Care Licensing, Mail Code E-550, Texas Department of Family and Protective Services, P.O. Box 149030, Austin, Texas 78714.

40 TAC § 745.327

Tex. Admin. Code tit. 40, § 745.327

§ 745.327. When does Licensing have good cause for exceeding its timeframes for processing my application?

We have good cause to exceed our timeframes for processing your application in the following circumstances:

- (1) We are processing at least 15% more applications than we did in the same quarter of the previous year;
- (2) The delay is caused by another public or private entity that we must rely on to process all or part of the applications we receive;
- (3) You are the subject of a pending investigation; or

(4) Other conditions exist that give us good cause for exceeding the timeframes.

40 TAC § 745.341
Tex. Admin. Code tit. 40, § 745.341

§ 745.341. What type of permit will Licensing issue me?

(a) We issue a non-expiring permit for listed family homes, registered child-care homes, employer-based child care, and certified operations.

(b) We issue either an initial permit (time-limited) or a non-expiring permit to all licensed operations.

40 TAC § 745.343
Tex. Admin. Code tit. 40, § 745.343

§ 745.343. What is the difference between an initial and non-expiring permit?

An initial permit is a time-limited permit allowing you to operate pending the issuance of a non-expiring permit. A non-expiring permit is effective as long as:

(1) You pay your annual fees, or you are exempt from paying them as set forth in § 745.503 of this title (relating to Is anyone exempt from paying fees?);

(2) You remain at the same location and under the same ownership, with the exception of child-placing agencies and registered and listed homes, who can move locations without applying for a permit (See Division 10, Subchapter D of Chapter 745 of this title (relating to Relocation of Operation));

(3) You comply with the minimum standards, rules, and statutes; and

(4) Your permit is not suspended, revoked, or voluntarily surrendered.

40 TAC § 745.345
Tex. Admin. Code tit. 40, § 745.345

§ 745.345. When does Licensing issue initial licenses?

We must issue an initial license when you meet our Licensing minimum standards, rules, and statutes and one of the following situations exists:

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

(1) You are not currently in operation but meet the appropriate minimum standards, except those with which compliance cannot be determined in the absence of children;

(2) You are operating but not currently licensed;

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

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

(5) 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 title (relating to What is a change in the ownership of an operation?)).

40 TAC § 745.347

Tex. Admin. Code tit. 40, § 745.347

§ 745.347. How long is an initial permit valid?

An initial permit is valid for six months from the date we issue it. We may renew it up to an additional six months. You may only have an initial permit for a maximum of one year. The initial permit expires when we issue or deny you a non-expiring one, even if the six-month period for initial permit has not yet expired at the time the non-expiring permit is issued or denied.

40 TAC § 745.349

Tex. Admin. Code tit. 40, § 745.349

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

We cannot determine compliance with all the Licensing 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 permit, if you have not exceeded the maximum one year period;

(2) We may take remedial action, as appropriate; and/or

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

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

**40 TAC § 745.351
Tex. Admin. Code tit. 40, § 745.351**

§ 745.351. If I have an initial permit, when will I be eligible for a non-expiring permit?

You will be eligible for a non-expiring permit when:

- (1) Your initial permit has been in effect for at least three months;
- (2) You have met all licensing minimum standards on a continuing basis;
- (3) The Licensing staff has made three inspections, unless supervisory approval is obtained to make fewer visits; and
- (4) You have paid your non-expiring license fee.

**40 TAC § 745.353
Tex. Admin. Code tit. 40, § 745.353**

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

You may request an administrative review and/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 and/or an appeal. Also see Subchapters L and M of this chapter (relating to Remedial Actions, and Administrative Reviews and Due Process Hearings).

**40 TAC § 745.371
Tex. Admin. Code tit. 40, § 745.371**

§ 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 family home, if more than one person cares for children in a single living unit or child-care home, the name on the permit must be the name of the primary caregiver. For a listed family home, the name on the permit must be the name of the caregiver.

**40 TAC § 745.373
Tex. Admin. Code tit. 40, § 745.373**

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

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

No, you may not have more than one licensed child-care home. A child-care home must operate in the caregiver's own residence. 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 licenses remain 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.

**40 TAC § 745.375
Tex. Admin. Code tit. 40, § 745.375**

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

You may do so only under the following conditions:

- (1) Both the residential child-care and child day-care divisions approve;
- (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.

**40 TAC § 745.379
Tex. Admin. Code tit. 40, § 745.379**

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

A single operation may have one license to be a child-care home and another license to be a child-care center if:

- (1) Before September 1, 2003, the operation held a license to be a group day-care home and a license to be a kindergarten/nursery school or school for grades kindergarten and above, and these licenses remain valid;

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

(2) By August 31, 2003, you notified us that you chose to have both a licensed child-care home and licensed child-care center at the same location;

(3) The licensed child-care home does not operate during the same hours as the licensed child-care center;

(4) During the hours that the operation is a child-care home, it meets the minimum standards for child-care homes; and

(5) During the hours that the operation is a child-care center, it meets the minimum standards for child-care centers.

**40 TAC § 745.381
Tex. Admin. Code tit. 40, § 745.381**

§ 745.381. Do I need Licensing's permission for my child day-care operation to provide occasional overnight care?

Your child day-care operation may provide overnight care once a month without our permission. For example, you may have an overnight slumber party for the children in care.

**40 TAC § 745.383
Tex. Admin. Code tit. 40, § 745.383**

§ 745.383. Can a licensed or registered child day-care operation offer 24-hour care?

Yes, but we must approve your license or registration to care for children both during the day and night. Even then, a child may only be in care for three consecutive 24-hour periods with a maximum of six 24-hour periods per month.

**40 TAC § 745.385
Tex. Admin. Code tit. 40, § 745.385**

§ 745.385. Can multiple operations operate under one permit?

(a) Multiple operations may not operate under one permit unless they are:

(1) Contiguous to one another, are the same type of child-care operation, and have the same governing body; or

(2) Not contiguous, but they are the same type of child-care operation, are nearby one another, and operate as a single operation as evidenced by staffing, finance, and administrative supervision effectively supporting the

operations.

(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 is revoked or voluntarily relinquished.

40 TAC § 745.401
Tex. Admin. Code tit. 40, § 745.401

§ 745.401. What fees must I pay when I reapply for a permit?

Unless you are reapplying within 30 days after you withdrew your original application, you must pay all fees. The reapplication is considered an original application.

40 TAC § 745.403
Tex. Admin. Code tit. 40, § 745.403

§ 745.403. Can I apply for another permit after Licensing denies or revokes my permit?

(a) If we revoke your child day-care permit or deny you a permit to operate a child day-care operation on or after September 1, 2009, you may not apply for another permit before the fifth anniversary of the date on which the denial or revocation takes effect.

(b) If we revoke your child day-care permit or deny you a permit to operate a child day-care operation prior to September 1, 2009, you may not apply for another permit before the second anniversary of the date on which the denial or revocation takes effect.

(c) If we revoke your residential child-care permit or deny you a permit to operate a residential operation on or after September 1, 2005, you may not apply for another permit before the fifth anniversary of the date on which the denial or revocation takes effect.

(d) A revocation or denial takes effect when:

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

(2) Our revocation or denial of your permit is upheld.

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

(e) This rule does not apply if your permit is revoked solely because you have relocated your operation or changed ownership.

40 TAC § 745.405
Tex. Admin. Code tit. 40, § 745.405

§ 745.405. Can I operate after I apply for a permit?

You cannot operate merely because you apply for a permit. We may deny you a permit if you operate before a permit is issued.

40 TAC § 745.407
Tex. Admin. Code tit. 40, § 745.407

§ 745.407. What fees must I pay when I apply for another permit after Licensing revokes my permit?

In addition to the fees you would pay with an original application, you must reimburse us for the cost of publishing the notice of revocation.

40 TAC § 745.429
Tex. Admin. Code tit. 40, § 745.429

§ 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 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.

40 TAC § 745.431
Tex. Admin. Code tit. 40, § 745.431

§ 745.431. What must I do if I relocate my family home after I receive my listing?

If you relocate your listed family home, you must notify us as early as possible before the move, but no later than 15 days after the move. You must complete a form provided by us showing the new address. We will amend the listing certificate to reflect the new address. The issuance date on the original listing certificate 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.

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

40 TAC § 745.433
Tex. Admin. Code tit. 40, § 745.433

§ 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 as early as possible before the move, but no later than 15 days after the move. You must complete a form provided by us showing your new address. We will inspect your new location. If you comply with standards, we will amend the registration certificate to reflect the new address. The issuance date on the registration certificate 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.

40 TAC § 745.435
Tex. Admin. Code tit. 40, § 745.435

§ 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 permit unless you are licensed or certified to operate a child-placing agency.

(b) For all operations other than child-placing agencies, 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.

(d) If you are going to relocate your child-placing agency, 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 you comply with 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.

40 TAC § 745.437
Tex. Admin. Code tit. 40, § 745.437

§ 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 permit no longer owns the operation;

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

(2) The governing body stated on the permit 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) If the permit holder is a type of business entity, that business entity is sold, except as set forth in subsection (b) of this section.

(b) A change in ownership of an operation does not include the acquisition of a corporate permit holder's publicly traded stock if the following conditions exist:

(1) The corporate permit holder listed on the application and on the permit will continue to exist as the same corporate entity and to own and operate the operation;

(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.

**40 TAC § 745.439
Tex. Admin. Code tit. 40, § 745.439**

§ 745.439. What must I do if the ownership of my employer-based child care changes?

(a) A change in your ownership automatically revokes your permit.

(b) If you are going to change ownership, you must notify us as early as possible before the change. See Division 3 of this subchapter (relating to Submitting the Application Materials).

40 TAC § 745.461

Tex. Admin. Code tit. 40, § 745.461

§ 745.461. Does a parent have to be at the work site when their 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 the majority of the time the child is in care;
- (3) Be physically accessible to the child, although a parent may be away from the building for a limited period for lunch, a business meeting, doctor appointment, or to attend training; and
- (4) A parent may not be away from the building for more than four hours in a day or for more than ten hours in a week.

40 TAC § 745.463

Tex. Admin. Code tit. 40, § 745.463

§ 745.463. What are the qualifications to be a caregiver at an employer-based child care?

A caregiver must:

- (1) Be at least 18 years of age;
- (2) Have a high school diploma or its equivalent, and upon request verify completion of any high school equivalency program with original documentation to us. A high school equivalent is a program recognized by the Texas Education Agency (TEA) or other public educational entity outside of Texas, which offers training similar to reading, writing, and problem-solving skills taught at the high school level, such as a General Educational Development (GED) certificate;
- (3) Meet the requirements in Subchapter F of Chapter 745 of this title (relating to Background Checks);

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

(4) Before being counted in the caregiver-to-child ratio, complete an orientation for caregivers to include at least the following:

(A) A presentation of your operational policies including discipline, guidance, and the release of children;

(B) An overview of symptoms of child abuse, neglect, and sexual abuse and the responsibility for reporting these;

(C) The procedures to follow in handling emergencies, which may include, but are not limited to, fire, explosion, tornado, toxic fumes, volatile persons, and severe injury or illness of a child or adult; and

(D) The use and location of fire extinguishers and first-aid equipment;

(5) Before being counted in the caregiver-to-child ratio, complete eight hours of pre-service training, as specified in § 746.1305 of this title (relating to What must be covered in the eight clock hours of pre-service training for caregivers?), unless exempted as specified in § 746.1307 of this title (relating to Are any caregivers exempt from the pre-service training?);

(6) Obtain at least 15 clock hours of training each year as specified in § 746.1309 of this title (relating to How many clock hours of annual training must be obtained by caregivers?), § 746.1313 of this title (relating to When must annual training for my caregivers and director be obtained?), § 746.1317 of this title (relating to Must the training for my caregivers and the director meet certain criteria?), § 746.1323 of this title (relating to If I hire a caregiver or a director that received training at another child-care center, may these hours count towards the annual training requirement at my center?), § 746.1325 of this title (relating to What is self-instructional and instructor-led training?), and § 746.1327 of this title (relating to How many annual training clock hours may caregivers obtain from self-instructional materials?);

(7) Obtain first-aid and CPR training as specified in § 746.1315 of this title (relating to Who must have first-aid and CPR training?); and

(8) Have a Child Development Associate, a Certified Child-Care Professional credential, or a day-care administrator's credential issued by a professional organization or educational institution and approved by Licensing based on criteria specified in Subchapter P of Chapter 745 of this title (relating to Day Care Administrator's Credential Program). These credentials require documentation and periodic renewal to remain qualified.

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

(2) Fees for conducting your background checks;

(3) Fees for issuing your initial license;

(4) Fees for renewing your initial license;

(5) Fees for issuing your non-expiring permit;

(6) Annual fees for maintaining your permit; and

(7) Fees for amending your permit.

**40 TAC § 745.503
Tex. Admin. Code tit. 40, § 745.503**

§ 745.503. Is anyone exempt from paying fees?

(a) Certified or state-run operations are exempt from paying fees listed in § 745.501 of this title (relating to What type of fees may Licensing charge me?).

(b) A listed family home in which a relative child-care provider cares for the child(ren) in the child(ren)'s own home is exempt from paying fees listed in § 745.501 of this title.

(c) The following residential child-care operations must pay application fees but are exempt from all other fees listed in § 745.501 of this title:

(1) Independent foster family homes and foster group homes;

(2) Nonprofit operations that provide residential child care for children in the managing conservatorship of DFPS during the 12-month period immediately preceding the anniversary date of the permit; and

(3) Nonprofit operations that provide residential child care and do not charge for that care.

40 TAC § 745.505
 Tex. Admin. Code tit. 40, § 745.505

§ 745.505. What fees must I pay to list my family home and maintain the listing?

(a) The following chart contains the fees required for listed family homes, when the fees are due, and the consequences for failure to pay the fees on time. Note that for listed family homes the fees for background checks are included in the \$20 application and annual fees.

Figure: 40 TAC §745.505(a)

Type and Amount of Fee	When the Fee is Due	Consequences for Failure to Pay Fee on Time
(1) Application/request processing fee: \$20	Before we accept your application/request for a listing	We will return your application/request as incomplete.
(2) Annual listing fee: \$20	On the anniversary date of your listing	If you do not pay your fee when it is due, your listing is automatically suspended until you pay your fee. If you do not pay your fee within six months of when your suspension begins, your license is automatically revoked.

(b) A listed family home in which a relative child-care provider cares for the child(ren) in the child(ren)'s own home is exempt from paying fees.

40 TAC § 745.507

Tex. Admin. Code tit. 40, § 745.507

§ 745.507. What fees must I pay to register my child-care home and maintain the registration?

The following chart contains the fees required for registered child-care homes, when the fees are due, and the consequences for failure to pay the fees on time:

Figure: 40 TAC §745.507

Type and Amount of Fee	When the Fee is Due	Consequences for Failure to Pay Fee on Time
(1) Application/request processing fee: \$35	Before we accept your application/request for a registration	We will return your application/request as incomplete.
(2) Annual fee: \$35	On the anniversary date of your registration	We may: <ul style="list-style-type: none"> • Suspend your registration if you do not pay your fee within one month after your anniversary date; and • Revoke your registration if you do not pay your fee within three months after your anniversary date.
(3) Background check fee: \$2 per person	At the time you request a background check or on a monthly or quarterly basis	We may suspend and/or revoke your registration.

40 TAC § 745.509

Tex. Admin. Code tit. 40, § 745.509

§ 745.509. What fees must I pay to apply for and maintain a license for an operation?

The following chart contains fees required for licenses (including child day-care and residential child-care operations, and child-placing agencies), when the fees are due, and the consequences for failure to pay the fees on time:

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

Figure: 40 TAC §745.509

Type and Amount of Fee	When Fee is Due	Consequences for Failure to Pay Fee on Time
(1) Application processing fee: \$35	Before we accept your application	We will return your application as incomplete.
(2) Initial license fee for an operation (other than a child-placing agency): \$35	Before we accept your application	We will return your application as incomplete.
(3) Initial license fee for a child-placing agency: \$50	Before we accept your application	We will return your application as incomplete.
(4) Initial renewal fee for an operation (other than a child-placing agency): \$35	Before we renew your initial license	We will deny the renewal of your initial license if you do not pay your fee by your renewal date.
(5) Initial renewal fee for a child-placing agency: \$50	Before we renew your initial license	We will deny the renewal of your initial license if you do not pay your fee by your renewal date.
(6) Non-expiring license fee for an operation (other than a child-placing agency): \$35 + \$1 per licensed capacity	Before we issue you a non-expiring license	We will deny your license if you do not pay your fee by your issuance due date.
(7) Non-expiring license fee for a child-placing agency: \$100	Before we issue you a non-expiring license	We will deny your license if you do not pay your fee by your issuance due date.
(8) Annual license fee for an operation (other than a child-placing agency): \$35 + \$1 per licensed capacity	On the anniversary date of your license	If you do not pay your fee when it is due, your license is automatically suspended until you pay your fee. If you do not pay your fee within six months of when your suspension begins, your license is automatically revoked.
(9) Annual license fee for a child-placing agency: \$100	On the anniversary date of your license	If you do not pay your fee when it is due, your license is automatically suspended until you pay your fee. If you do not pay your fee within six months of when your suspension begins, your license is automatically revoked.
(10) Amendment fee for an operation or child-placing agency: \$1 for each child that the current licensed capacity is increased.	Before we issue your amendment	We will deny your request for an increase in capacity.
(11) Background check fee: \$2 per person	At the time you request a background check or on a monthly or quarterly basis	We may suspend and/or revoke your license.

40 TAC § 745.511
Tex. Admin. Code tit. 40, § 745.511

§ 745.511. Must I pay fees for more than one license if I have separate licenses for different types of operations?

Yes, you must pay a fee for each license, even if the separate licenses are at the same location.

40 TAC § 745.513
Tex. Admin. Code tit. 40, § 745.513

§ 745.513. If my license allows for different capacities at different times of the day, how does Licensing determine my fees?

We base your fees on the highest capacity.

40 TAC § 745.515
Tex. Admin. Code tit. 40, § 745.515

§ 745.515. Will I receive notice telling me when my non-expiring and annual fees are due?

Texas Administrative Code _Title 40. Social Services and Assistance _Part 19. Department of Family and Protective Services _Chapter 745. Licensing _Subchapter D. Application Process _Division 1. Definitions

Yes, before the due date we will send you a notice that your fees are due along with a Child Care Fee Schedule Form and a return envelope.

**40 TAC § 745.517
Tex. Admin. Code tit. 40, § 745.517**

§ 745.517. How do I submit a fee to Licensing?

You must send a cashier's check, corporate check, money order, or certified check made payable to the Texas Department of Protective and Regulatory Services along with a Child Care Fee Schedule Form. Mail the fee information to the Texas Department of Protective and Regulatory Services, Accounting Division E-672, P.O. Box 149030, Austin, Texas 78714-9030. This also applies to background checks.

**40 TAC § 745.519
Tex. Admin. Code tit. 40, § 745.519**

§ 745.519. Are any fees refundable?

The following fees are refundable under the conditions noted:

- (1) We refund the application fee if the issuance of the permit was late without good cause and the applicant requests the refund;
- (2) We refund the initial license fee if the application is withdrawn, or the license is not issued;
- (3) We refund the non-expiring license fee if the initial license expires without the non-expiring license being issued; and
- (4) We refund the amendment fee if the amendment is not issued.

**40 TAC § 745.521
Tex. Admin. Code tit. 40, § 745.521**

§ 745.521. What fees must I pay to apply for and to maintain a certificate of compliance?

The following chart contains fees required for your employer-based child care, when the fees are due, and the consequences for failure to pay on time:

Figure: 40 TAC §745.521

Type and Amount of Fee	When Fee is Due	Consequences for Failure to Pay Fee on Time
(1) Application/ Compliance Certificate fee: \$35	Before we accept your application	We will return your application as incomplete.
(2) Annual Compliance Certificate fee: \$35	On the anniversary date of your permit	If you do not pay your fee when it is due, your permit is automatically suspended until you pay your fee. However, if you do not pay your fee within three months after your anniversary, we may revoke your permit.
(3) Background check fee: \$2 per person	At the time you request a background check or on a monthly or quarterly basis	We may suspend and/or revoke your permit.
(4) Corrective Action fee: \$100	At the time corrective action is implemented.	We may suspend and/or revoke your permit.

40 TAC § 745.523
 Tex. Admin. Code tit. 40, § 745.523

§ 745.523. Who must I submit background checks on, and when must they be submitted?

You must submit background checks on the persons, as applicable, and within the timeframes as required for a licensed child-care center in Subchapter F of this chapter (relating to Background Checks).