



Minimum Standards Revision Notice

Date: July 29, 2018 **Effective Date:** July 29, 2018

To: All Holders of Minimum Standards for General Residential Operations

From: Jean Shaw, HHSC Associate Commissioner for Child-Care Licensing

Subject:

85th Legislative Changes:

- Exemptions;
- Public Notice and Hearing Requirements; and
- Taking Possession of a Child Directly from a Law Enforcement Officer.

The following rule changes include changes to Chapters 745 (Licensing) and 748 (Minimum Standards for General Residential Operations). These changes will be effective on July 29, 2018.

85th Legislative Changes

Exemptions

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

The amendment to §745.129 implements new HRC, §42.041(b)(24) (there are two new paragraphs numbered (24)), which were added by House Bill

(HB) 871, Section 12, and HB 7, Section 46, respectively, 85th Legislature, Regular Session, 2017. Regarding the new exemptions:

- The first exemption is similar to the current exemption in paragraph (3) relating to when a “caregiver has a written agreement with a parent to provide residential care.” This exemption allows multiple children or sibling groups to live with a caregiver, if the caregiver does not care for more than six children (excluding related children), does not receive compensation, and has a written agreement with the parent of each child or sibling group.
- The second exemption is new paragraph (8) and is for a program that provides respite care for a local mental health authority under a contract with that authority.

Public Notice and Hearing Requirements

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

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

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

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

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

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

The amendments to §§745.273, 745.275, and 745.277 (and the repeal of §745.271 and §745.281) implement HB 7, Section 59, 85th Legislature, Regular Session, 2017, which amended HRC, §42.0461. Most of these changes do not impact a general residential operations (GRO), because the amendments delete moot public notice and hearing requirements for independent and agency foster group homes and foster family homes. However, the amendment to §745.279 does impact a GRO, because this amendment clarifies the information that CCL will consider when determining

whether to issue or amend a permit in response to public hearing, including the application and the supplemental materials, written comments or information provided at the public hearing or directly to CCL, the verbatim record of the public hearing, and the Report of Public Comment from the Community.

Taking Possession of a Child Directly from a Law Enforcement Officer

§745.4201. May I take possession of a child from a law enforcement officer?

§745.4203. How does a child-placing agency become authorized to take possession of a child from a law enforcement officer?

§745.4205. What must I do when I take possession of a child from a law enforcement officer?

§748.1263. What constitutes an emergency admission to my operation?

§748.1265. May I take possession of a child from a law enforcement officer?

The amendments to §§745.4201, 745.4203, 745.4205, 748.1263, and 748.1265 implement new Article 2.273 of the Code of Criminal Procedure, which was added by Senate Bill 1571, 85th Legislature, Regular Session, 2017. The amendments clarify that a GRO licensed to provide emergency care services may take possession of a child directly from a law enforcement officer, which is also considered an emergency admission. A GRO taking possession of a child from a juvenile probation officer is no longer allowed. The amendment to §745.4205 also deletes the mention of an outdated form and replaces the form with a list of information that the GRO must obtain when a law enforcement officer releases the child to a GRO providing emergency care services.

You may print copies of the updated Minimum Standards from the website at http://www.dfps.state.tx.us/Child_Care/Child_Care_Standards_and_Regulations/default.asp.

If you have questions, please contact your licensing representative or send an email to rcclstan@hhs.state.tx.us.