

Licensing and Regulation for a New Child-Care Center

Overview

Under Texas law, a “licensed child-care center” is facility that provides care for seven or more children younger than 14 years old for less than 24 hours per day at a location other than the permit holder’s home.” An organization interested in setting up a child-care center should review both the requirements for establishing a new child-care center and the ongoing compliance and liability issues involved in operating a child-care business before making the final decision to establish a child-care center. Child-care centers are highly regulated businesses that must comply with local, state, and federal laws administered by the following agencies:

- The Texas Department of Family and Protective Services (DFPS) is the agency responsible for licensing and monitoring child-care businesses, including centers. The Child-Care Licensing Division of the DFPS grants permits to child-care operators in Texas.
- Local government planning and permit offices regulate land use, health and safety compliance, and permitting (including that for food services) practices of businesses located within their jurisdiction.
- Local fire departments are responsible for ensuring that businesses follow local codes and regulations through review of evacuation plans and through annual inspections.
- The Texas Attorney General has enforcement authority of the business entities formed under Texas law.
- The Texas Secretary of State oversees the creation and compliance of business entities under Texas law.
- The Comptroller of the State of Texas monitors the compliance of Texas businesses with various provisions of the Texas Tax Code.
- The Internal Revenue Service is responsible for granting recognition of exemption from federal taxes to nonprofit organizations and responsible for ongoing monitoring of those organizations.

Application Process

The process of becoming a licensed Texas child-care center (“center”) involves many steps. The process is outlined in information packets available from local child-care licensing offices. To locate the nearest office, visit:

http://www.dfps.state.tx.us/Child_Care/Local_Child_Care_Licensing_Offices/default.asp.

The information packet will include application forms and information regarding resources that help applicants meet the licensing requirements. DPFS will arrange a pre-application meeting prior to accepting an application submission. The information gathering phase is also the time to identify and

contact the relevant local government offices that will regulate zoning, safety, and food service permits for the center. In order to submit a successful application, a center will need a business plan and a facility plan. Statewide and local networks of child-care providers are good resources for creating the various plans needed to start and operate a child-care business.

A completed application for licensing will contain several items including the following:

- A completed Child Day Care Application Form, Form 2910.
- A completed floor plan of the building and surrounding space to be used, including dimensions of the indoor and outdoor space.
- A completed Request for Criminal History and Central Registry Check form on all applicable persons, that must be submitted online (enter the names of all applicants and employees as known). A center may submit a written request (Form 2971) with the consent of the Licensing Office. See the Employment Section for more information.
- A completed Personal History Statement, Form 2982, for all persons designated as director or co-director.
- Proof of Liability Insurance. Liability insurance coverage for injury to a child that occurs while the child is in the center's care or on the premises of the operation is required in the amount of at least \$300,000 for each occurrence of negligence. If the center does not obtain liability insurance, submit a written explanation of why the insurance coverage is not provided along with a sample letter or pamphlet to inform parents that the center does not provide the coverage. DFPS may not agree with the explanation and may instruct the center to obtain the insurance before issuing a permit.
- A completed Plan of Operation, Form 2948. The Plan of Operation must show how the operation will comply with the law and appropriate minimum standard rules.
- A completed Child-Care Fee Schedule form, Form 2988 and fee. Generally, submit a \$35 application fee and a \$35 initial permit fee.

Submitted applications will be reviewed within 21 days. DFPS will notify the center in writing that the application is either:

- Complete and accepted for processing; or
- Incomplete or the materials submitted do not show compliance with relevant law or minimum standard rules.

The notification letter will explain necessary corrections. The center will have three opportunities to resubmit the materials. If the application is returned as incomplete three times within one year, the application will not be accepted and the center may not apply again for one year from the date that the last incomplete application was returned.

Post-Application

If the application is accepted, before issuing the center an initial or non-expiring permit, licensing staff will conduct an inspection to ensure the center and its operations comply with applicable law and minimum standard rules. The inspection, which is usually announced ahead of time, consists of a review of all submitted documentation, checking other required materials, and inspection of the operation to make sure all appropriate standards are met. It must meet all standards except for those for which waivers and variances have been granted. If licensing staff observe deficiencies with the law or minimum standard rules, they will inform the center about them and set due dates by which the center must make corrections. DFPS will then issue a permit to the center if the operation complies with the law and applicable minimum standard rules. They will deny a permit if the operation does not comply with the law and minimum standard rules. They will issue or deny the permit no later than 60 days after they have accepted the application.

In most cases, DFPS will grant the center an initial permit if it meets the requirements. An initial permit allows the center to operate pending the issuance of a non-expiring permit and is valid for six months from the date it is issued. DFPS may renew an initial permit for up to an additional six months for a maximum of one year. The initial permit expires when the center is issued a non-expiring permit. During the six-month initial period, the child-care operation must show that it can meet standards on a continuing basis in order to qualify for a non-expiring permit. Licensing staff will conduct at least three inspections to evaluate the center's compliance with minimum standard rules. Licensing staff will provide technical assistance as needed. After each inspection, licensing staff will discuss their findings with the center and provide notice in writing of any deficiencies.

If the operation continues to meet minimum standards throughout the initial period, the center will be issued a non-expiring permit, valid until relinquished or revoked for good cause; no new application is necessary. However, the center must pay the non-expiring licensing fee, renewable annually.

After receiving the center's non-expiring permit, licensing staff will periodically inspect the licensed operation to make sure it continues to meet minimum standards. By law, DFPS must make at least one unannounced inspection every year.