

TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES
MINIMUM STANDARDS REVISION NOTICE



Date: June 1, 2008 **Effective Dates:** See below

To: All Holders of **Minimum Standard Rules for Licensed Child-Care Centers** **Stock Code:** P20330-2000

From: Diana Spiser,
DFPS Assistant Commissioner for Child-Care Licensing *Use the stock code to order additional replacement page packets.*

Subjects:

- Incorporation of rules regarding inclusive care
- Incorporation of rules regarding pest control
- Incorporation of rules regarding background checks (Appendix IV-V: Background Checks)

In an effort to save time and money and to ensure you have the most up-to-date minimum standards information, you will find attached a revision packet for Minimum Standard Rules for Licensed Child-Care Centers.

- The revision packet includes the revised pages and a memo describing the changes.
- Remove the outdated pages in your minimum standard publication and replace them with the attached revised pages, as instructed below.
- Destroy or disregard the outdated pages.
- If you need additional copies of the revision packet you may print copies from our website at www.dfps.state.tx.us or contact your local licensing office.
- If you have questions, please contact your licensing representative or your local licensing office.

The following rule changes were effective March 1, 2008.

Inclusive Care

The purpose of this change is to support the inclusive care of children with special needs in child-care operations. The changes modify the health statement required for a child at admission, ensure directors training requirements include serving children with special needs, and require permit holders to report substantiated Department of Justice (DOJ) complaints related to Americans with Disabilities Act (ADA)

§746.201. What are my responsibilities as the permit holder?

§746.611. Must I have a health statement for children in my care?

§746.1311. How many clock hours of training must my child-care center director obtain each year?

Pest Control

§746.3427 is amended to add a reference the Texas Department of Agriculture, because the Texas Structural Pest Control Board has been transferred to the Texas Department of Agriculture, as required by House Bill 2458 of the 80th Legislature. Appendix IX is revised for the same reason, and to update the statutory citation of the Texas Structural Pest Control Act.

§746.3427. Must I use a licensed exterminator to treat my child-care center for insects, rodents, and other pests?

Appendix IX: Texas Structural Pest Control Act

(continued)

The following rule changes were effective June 1, 2008.

Background Checks

Appendix IV, Background Checks, is revised to reflect rule changes that:

- implement new fingerprint-based criminal history checks against the Department of Public Safety (DPS) and Federal Bureau of Investigation (FBI) databases for children in child care, including new fingerprint-based criminal history checks required by amendments to §42.056, Human Resources Code, that were enacted in Senate Bill 758, 80th Legislative Session, and new fingerprint-based criminal history checks required by the federal “Adam Walsh Child Protection and Safety Act of 2006” (the Adam Walsh Act);
- expand the list of criminal convictions that may be used to prevent a person from having access to children in care; and
- clarify terminology and amend certain procedures relating to the background check and risk evaluation processes;

The changes will not only bring Child Care Licensing (CCL) rules in compliance with state and federal law, but will significantly enhance protections for children in child care by identifying certain persons with criminal histories or child abuse or neglect findings that are not identified under the current background check process and ensuring that such persons do not pose a risk to children in care. In addition, these changes, which will necessitate the use of fingerprint-based criminal history checks, will reduce the incidence of “false positive” matches, that sometimes result from name-based criminal history checks, and cause delays in hiring qualified applicants in child-care operations.

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

§745.611. What are background checks?

§745.615. On whom must I request background checks?

§745.623. How do I request a background check?

§745.625. When must I submit a request for a background check?

§745.626. How soon after I request a background check on a person can that person provide direct care or have direct access to a child?

§745.627 is repealed, and the language is incorporated into 745.623

§745.629. How do I submit fingerprints for a fingerprint-based criminal history check?

§745.630. If a fingerprint-based criminal history check has already been completed on a person, is a new fingerprint-based criminal history check required for that person every 24 months?

§745.651. What types of criminal convictions may preclude a person from being present in an operation?

§745.663. What if the person with the criminal conviction or central registry finding believes the information obtained is incorrect?

§745.683. Who is responsible for submitting a request for a risk evaluation?

§745.685. How do I submit a request for a risk evaluation?

§745.687. What must I include in my request for a risk evaluation based on criminal history?

§745.693. In what circumstances can someone with a criminal history be present in a child-care operation?

§745.701. May a person arrested or charged with a crime be present in an operation while children are in care?

(continued)

§745.707. Who makes the final decision on a risk evaluation?

§745.735. What notice will Licensing send a designated perpetrator or a sustained perpetrator working at an operation?

Criminal Convictions

Appendix V, Certain Criminal Offenses in the Texas Penal Code and the Health and Safety Code, is revised to support statutory changes relating to background checks that passed as part of Senate Bill 758, Sections 28-29.

Please make the following changes to the Minimum Standard Rules for Licensed Child-Care Centers (cover date September 2006):

- Remove page 5 – 6.
- Replace with new page 5 – 6.

- Remove page 15 – 16.
- Replace with new page 15 – 16.

- Remove page 43 – 44.
- Replace with new page 43 – 44.

- Remove page 109 – 110.
- Replace with new page 109 – 110.

- Remove Appendix IV, pages 185 through 199.
- Replace with new Appendix IV, pages 185 through 200-A.

- Remove Appendix V, pages 201 through 204.
- Replace with new Appendix IV, pages 201 through 204-A.

- Remove Appendix IX, page 229.
- Replace with new Appendix IX, page 229.

Attachments