

Child Care Regulations in Texas

Overview

A summary of child care regulations in Texas.

- Types of care that must be licensed
- Types of care that must be registered
- Types of care that must be listed
- Types of care that may operate without a license or registration
- Age-group definitions
- Subsidized child care
- Whom to contact
- Child abuse reporting
- Child care centers
- Family child care homes

Child care is regulated differently in every state and sometimes even in different counties or cities in the same state. In Texas, the Department of Family and Protective Services licenses child care centers and group child care homes and registers family child care homes. Other types of local regulations, such as zoning, health, building, and fire safety codes, may also apply to child care facilities.

This guide explains the level of quality required by child care regulations in Texas. Some child care programs in the state operate at this level and some well above it. The Texas Rising Star program is a voluntary certification system of the Texas Workforce Network, in which providers receive between two and four stars by exceeding the minimum requirements of state licensing. View guidelines and information at www.twc.state.tx.us/svcs/childcare/provcert.html. As a parent, you have your own standards and will look for providers you trust to meet them. Over time, your informed consumer choice and cooperation with the licensing agency can help raise the quality of child care in your community.

Both the law and licensing requirements are subject to change. To ensure that you have accurate and complete information, check with the licensing department to see whether there have been any changes since the information in this guide was last updated.

Types of care that must be licensed

Child care licensing is a type of regulatory activity in which the state authorizes an individual or a group to operate a child care facility. The Texas Department of Family and Protective Services is responsible for monitoring compliance with state standards, establishing procedures for revoking a license, and providing appeal mechanisms.

In Texas, the following forms of child care must be licensed:

- *Child care centers*: full- or part-time care for seven or more children for fewer than 24 hours per day at a location other than the permit holder's home

- *Family child care homes*: full- or part-time care in the provider's residence for up to 12 children from birth through 13 years old, including the provider's own children

Types of care that must be registered

Registration is a form of regulatory activity that typically emphasizes self-inspection by the caregiver and encourages active parental monitoring of facilities. The application process requires that a provider complete an orientation class and receive clearances on background checks. A registration certificate is issued after licensing staff completes an on-site inspection.

In Texas, the following form of child care must be registered:

- *Family child care homes*: full- or part-time care in the provider's residence for between four and six children, plus six additional school-age children after school

More detailed information about child care centers and family child care homes can be found later in this guide.

Types of care that must be listed

Some types of child care are required to be listed with the state. Listing ensures only that background checks have been conducted on the provider and any residents or other people frequenting the home while the children are in care. There are no minimum health or safety standards. Providers must be at least 18 years old, but they do not have education or training requirements and the homes are not inspected except in response to a complaint of abuse or neglect.

In Texas, the following form of child care must be listed:

- *Family child care homes*: full- or part-time care in the provider's residence for three or fewer children at a time; the total number of children in care, including the provider's own children, must not exceed 12

Types of care that may operate without a license or registration

Some types of child care are not required to be licensed or registered by the state. There are no agencies investigating or regulating these providers, so be sure to thoroughly check a provider's background and experience before choosing this type of care.

In Texas, the following forms of child care are exempt from licensing:

- Care provided in the child's home or by relatives
- Before- and after-school programs for private schools if they operate for fewer than two hours each day

- Any facility, religious or otherwise, that offers an educational program for children in grades prekindergarten up to grade twelve; no more than two hours total of child care is provided before or after the customary school day in the community

Age-group definitions

- *Infant*: child from birth to 17 months
- *Toddler*: child 18 to 35 months
- *Preschooler*: child 3 to 4 years
- *School-age*: child 5 years and older

Subsidized child care

The Texas Workforce Commission makes funds available to families to assist with child care payments. The amount of the payments depends on family size and income. Recipients of these funds must be working or in training for employment to qualify. Families who are eligible may receive assistance whether their child is in a family child care home or a child care center, as long as the type of care complies with state regulations.

For further information about program availability and how to qualify, call Child Care Management Services at 211 or contact your local Texas Workforce Center via the internet at www.twc.state.tx.us/dirs/wdas/wdamap.html.

Whom to contact

For more detailed information regarding child care regulations in Texas, to obtain a copy of the state standards, or to report licensing violations, contact:

Texas Department of Family and Protective Services

Child Care Licensing

P.O. Box 149030, Mail code E-550

Austin, TX 78714-9030

Child Care Information Hotline: 800-862-5252

512-438-4800

www.dfps.state.tx.us/Default.asp

Child abuse reporting

The staffs of all child care facilities are required to report known or suspected child abuse or neglect to the state or to police. To report suspected child abuse, contact the Statewide Child Abuse Hotline at 800-252-5400, or from out-of-state, call 512-834-3784.

Child care centers

Licenses

- Must be licensed.
- License must be posted.
- Liability insurance is required if caring for 13 or more children or notice of unavailability with reason if insurance is not available.
- Licenses are valid until revoked or surrendered.

State inspection

- Announced inspection is made prior to licensing.
- Unannounced inspection is made after a complaint.
- Inspections are based on history of compliance, ranging from every three to five months for a history of noncompliance to annually for a history of good standing.

Staff:child ratios

Thirteen or more children in care

- Birth to 11 months: one staff for up to four infants (1:4)
- 12 to 17 months: one staff for up to five children (1:5)
- 18 to 23 months: one staff for up to nine children (1:9)
- 2 years: one staff for up to 11 children (1:11)
- 3 years: one staff for up to 15 children (1:15)
- 4 years: one staff for up to 18 children (1:18)
- 5 years: one staff for up to 22 children (1:22)
- 6 to 8 years: one staff for up to 26 children (1:26)
- 9 to 12 years: one staff for up to 26 children (1:26)

In mixed-age groups, the ratio is determined by the oldest of the majority of the group.

Children no more than 18 months older than the youngest infant may be in the same group.

Naptime ratios may be reduced with children at least 18 months old and staff remaining on site.

Twelve or fewer children in care

- Birth to 17 months: one staff for up to four children (1:4) with no other children

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- Birth to 17 months: two staff for up to 10 children (2:10) with no other children
- Birth to 17 months: one staff for up to three infants (1:3) and four children 18 months and older (1:4)
- Birth to 17 months: one staff for up to two infants (1:2) and eight children 18 months and older (1:8)
- Birth to 17 months: one staff for one infant (1:1) and 10 children 18 months old and older (1:10)
- 18 months and older: one staff for up to 12 children (1:12)

Maximum group size

Thirteen or more children

- Birth to 11 months: 10
- 12 to 17 months: 13
- 18 to 23 months: 18
- 2 years: 22
- 3 years: 30
- 4 years: 35
- 5 years: 35
- 6 to 8 years: 35
- 9 to 12 years: 35

Groups may be considered separate if a room is divided by shelves, screens, or movable walls.

Twelve or fewer children

- Birth to 17 months: 10
- 18+ months: 12

Staff qualifications

Director of a facility for 13 or more children in care

- Must be at least 21 years old
- Must have a high school diploma or a general equivalency diploma (GED)

- Must have one of the following:
 - Bachelor's degree with 12 credit hours in child development, plus six credit hours in business management and one year of experience in a licensed child care center
 - Associate's degree in child development or a related degree with six credit hours in child development, plus six credit hours in business management and two years of experience in a licensed child care center
 - Sixty credit hours with at least nine credit hours in child development, plus six credit hours in business management and two years of experience in a licensed child care center
 - Child Development Associate (CDA) or Certified Child Care Professional credential with six credit hours in business management, plus two years of experience in a licensed child care center
 - Child care administrator's certificate with at least 15 credit hours in child development and three credit hours in business management recognized by the department, plus two years of experience in a licensed child care center
 - Child care administrator's credential by a professional organization or an educational institution
 - Three years of experience in a licensed child care center, plus nine credit hours in child development and nine credit hours in business management

Director of a facility for 12 or fewer children in care

- Options for meeting requirements are as above, except:
 - Three credit hours in business management where six is noted
 - Experience in a family child care home or a licensed child care facility is also acceptable
 - Replace last requirement's three years of experience and nine credit hours each in business and administration with three years and 72 clock hours of training in child development, plus 30 clock hours in business management

Teacher/caregiver

- Must be at least 18 years old
- Must have a high school diploma or a GED

Assistant teacher/caregiver

- May be 16 or 17 years old if under the direct supervision of a qualified adult
- Must have a high school diploma or a GED, or be enrolled in an approved career-related program

Substitute

- Must meet the same qualifications of staff being replaced

Staff training

- All staff must receive department-approved orientation.
- All caregivers must have eight hours of department-approved preservice training unless exempt.
- Directors must have 20 hours of department-approved training annually.
- Caregivers must have 15 hours of department-approved training annually.
- Caregivers caring for children under 24 months must have annual training on the prevention of shaken baby syndrome and sudden infant death syndrome (SIDS) and on understanding early childhood development.

CPR and first aid

- One caregiver per group must have first-aid, rescue breathing, and choking training.
- One caregiver per facility must have current training in CPR for infants, children, and adults.

Staff medical requirements

- Requirements for TB tests vary by region and programs in certain areas will be required by the Texas Department of Health to have proof that staff is free of TB.

Staff background checks

- Each person 14 years and older who is present during hours of operation must have a state criminal history check and a child abuse central registry check.
- FBI criminal history check with fingerprinting is required for staff who live out of state or if there is a reason to believe federal criminal records may exist.
- Licensing Affidavit for Applicants for Employment form is required.

Discipline

- Certain methods of discipline, including corporal punishment, are prohibited.

Parents' rights

- Must receive and sign an enrollment agreement that lists operational policies and must be notified of changes
- Must be allowed to visit the facility any time during hours of operation to observe the child or center operations and activities

- Must be notified when the child has injuries or symptoms that require exclusion from the facility
- Must be notified of the outbreak of a communicable disease
- Must be provided reports and licensing information if requested

Health and safety requirements

- Must have a sign-in and sign-out log for children.
- Must follow age-appropriate regulations for indoor and outdoor play area and equipment.
- Must have a written emergency evacuation and relocation plan posted in each room.
- Must have at least a 4-foot fence around outdoor play area if children under 5 years old are in care.
- Must have a fence or wall at least 6 feet high around pools, and all bodies of water must be inaccessible.
- Must mark glass in sliding doors.
- Must have a flashlight or other department-approved emergency lighting in each room.
- Must have a first-aid kit.
- Must have an annual sanitation inspection.
- Must have an annual fire inspection.
- Must have a fire extinguisher inspected monthly or a sprinkler system inspected annually.
- Must have a working smoke detector in each room used by children; must test smoke detectors monthly.
- Must practice fire drills monthly.
- Must practice severe-weather drills every six months.
- Must have a working phone with a listed number.
- Must post emergency numbers by the phone.
- Must have written information on whom child may be released to and a plan for verifying identity.
- Must store hazardous or toxic materials in an area inaccessible to children.

- All storage chests, trunks, and boxes must have a lid that stays open and ventilation holes.
- Heating devices must not present hazards to children.
- Must cover electrical outlets in rooms used by children younger than 5 years old.
- Must keep air conditioners, fans, and heaters out of reach of children.
- Stairs over 2 feet must have handrails.
- BB guns, darts, fireworks, and toys that explode or shoot material are prohibited.
- No firearms are permitted on site unless the facility is a residence, where they must be in a locked cabinet with the ammunition stored in a separate locked cabinet.
- Must have all animals on premises vaccinated and must ensure that animals do not create unsafe or unsanitary conditions.
- Must not allow children to have contact with ducks, chickens, reptiles, or amphibians.
- No smoking is allowed at the facility, during transportation, or on field trips.

Transportation

- Vehicle must be maintained and in safe operating condition at all times.
- Age-appropriate child and adult safety restraints are required.
- First-aid supplies and a fire extinguisher are required.
- List of passengers, emergency forms, and contact information for the center and parents are required.
- Communication device such as a two-way radio, cell phone, or pager is required unless the driver is familiar with the route and a caregiver knows the routine and will take action if departures and arrivals are not met.
- Staff:child ratios on field trips are one staff or volunteer for the following: one infant, two toddlers, six 3-year-olds, eight 4-year-olds, ten 5-year-olds, and 12 school-age children.
- Written parental permission is required for field trips.
- On field trips, each child must have a nametag with center contact information.

Child medical requirements

- Children must be immunized, according to the Texas Department of Health.

- Requirements for TB tests vary by region and programs in certain areas will require proof that a child is free from TB, according to the Texas Department of Health.
- Must have a statement of health from a professional seen no more than one year prior to enrollment date.
- Written permission to dispense medication is required.
- Children in child care for the first time and who are 4 years and older by the first of September must have hearing and vision screening.

Care for sick children

- Unless a facility is a get-well center, ill children may not attend the center if the illness:
 - Prevents the child from participating in center activity
 - Compromises the health, safety, or supervision of other children
 - Is accompanied by diarrhea, lethargy, abnormal breathing, two or more vomiting episodes within a 24-hour period, rash with fever, or an oral temperature of 100.4 degrees or higher
 - Is contagious and the child has not been cleared by a health care professional
 - Possesses other symptoms of a potentially serious nature
- In case of an illness, parents must be notified and the child must be separated until picked up by a parent.

Family child care homes

Registration/licenses

- Registration is required when caring for four to six children, plus six after-school children.
- Licensing is required when caring for six to 12 children full-time.
- License or registration must be posted.
- Liability insurance is not required.
- Registration or license is in effect until revoked or surrendered.

State inspection

- Announced inspection is made prior to registration or licensing.
- Inspections may be made after a complaint.

- Licensed family child care home inspections are based on history of compliance ranging from every three to five months for a history of noncompliance to annually for a history of good standing.
- Registered family child care home inspections are based on history of compliance ranging from every 10 to 12 months for a history of noncompliance to every three years for a history of good standing.

Staff:child ratios in registered homes

- Birth to 17 months: one staff for every four children (1:4)
- 18 months to 5 years: one staff for every six children (1:6)
- 5 to 13 years: one staff for every 12 or more children (1:12)

Staff:child ratios in licensed homes

- Birth to 17 months: one staff for up to two infants (1:2), two staff for up to 10 infants (2:10), and three staff for up to 12 infants (3:12)
- 18 months to 3 years: one staff for up to eight children (1:8)
- 4 to 12 years: one staff for up to 12 children (1:12)

Maximum group size

- No more than 12 children

Staff qualifications

Registered provider

- Must be at least 21 years old.
- Must have a high school diploma or a GED.
- Must have a certificate of completion of licensing orientation within one year of application.
- May be 18 to 20 years old if the caregiver has one of the following:
 - CDA or Certified Child Care Professional Credential
 - Associate of applied science degree
 - Child care administrator's credential
 - Licensing of approved international education
 - Six college credit hours in child development, plus nine months of experience in a licensed child care facility

Licensed provider

- Must be at least 21 years old.

- Must have a high school diploma or a GED.
- Must have a certificate of completion of licensing orientation within one year of application.
- Must have one of the following:
 - Bachelor's degree with at least 12 college credit hours in child development and three credit hours in business management
 - Associate of applied science degree in child development or a related field with six college credit hours in child development and three credit hours in business management, plus one year of experience
 - Sixty college credit hours with six credit hours in child development and three credit hours in business management, plus one year of experience
 - CDA credential or certified child care professional credential with one year of experience
 - Child care administrator's certification from a community college with at least 15 college credit hours in child development and three credit hours in business management, plus two years of experience
 - Child care administrator's credential, plus two years of experience
 - Seventy-two hours of training in child development and 30 hours in business management with three years of experience
- Above required experience may be in a licensed or registered child care facility, in a teaching position, or in a graduate school setting.
- A provider of a licensed group child care home receiving a permit before May 1985 is exempt from these qualifications.

Assistant

- Must be at least 18 years old.
- Must have a high school diploma or a GED.
- May be 16 years old if not in staff:child ratio or supervising.

Substitute

- Must be at least 18 years old.
- Must have a high school diploma or a GED.
- Must meet current qualifications.
- Must be able to run the home in compliance with licensing standards and understand provider responsibilities.

Staff training

- All staff and family must have orientation if regularly or frequently present during care.
- Permit-holding provider in department-approved fields must have 20 hours of training per year.
- Staff must have 15 hours of training per year.
- Staff caring for children under 24 months old must have one hour of annual training on preventing shaken baby syndrome, preventing SIDS, and recognizing early childhood brain development.

CPR and first aid

- Permit-holding provider and substitutes must have current certification in first aid with rescue breathing, choking, and CPR for infants and adults.
- A second certified person must be present while child care is being provided away from the home.

Staff medical requirements

- Requirements for TB tests vary by region and homes in certain areas will be required by the Texas Department of Health to have proof that all staff and family 14 years and older are free of TB.

Staff background checks

- Criminal record check and child abuse registry check are required for staff or family 14 years and older.
- FBI check with fingerprints is required for nonresidents.
- Notarized affidavit is required for employees.

Discipline

- Written discipline policy is required.
- Corporal punishment and threats of corporal punishment are prohibited.

Parents' rights and responsibilities

- Must sign a child care enrollment agreement or similar document that includes operational policies
- Must be able to visit the home during hours of care to observe the child, child care operations, and activities in the home
- Must be notified within 48 hours if there is a communicable disease contraction or infestation outbreak

- Must be notified immediately if the child is seriously injured or ill
- Must be notified by the time the child is picked up for the day if involved in minor incidents
- Must receive contact information for licensing and abuse hot line

Health and safety requirements

- Must have a sign-in and sign-out log for children.
- Must have written permission to release a school-age child.
- Must follow age-appropriate regulations for indoor and outdoor play area and equipment.
- Must have an emergency plan.
- Must have monthly fire drills and biannual severe-weather drills.
- Must have a working phone.
- Must post emergency numbers by the phone.
- Must have smoke detectors and fire extinguishers.
- Must put screens on all windows.
- Must cover electrical outlets in rooms used by children younger than 5 years old.
- Must keep air conditioners, fans, and heaters out of reach of children.
- Must clearly mark glass in sliding doors at child's eye level.
- Must have a first-aid kit.
- Must have animals on premises vaccinated.
- Must store hazardous or toxic materials in an area inaccessible to children.
- All storage chests, trunks, and boxes must have a lid that stays open and ventilation holes.
- Must keep swimming pools inaccessible with a 4-foot fence, wall, or barrier.
- BB guns, darts, fireworks, and toys that explode or shoot material are prohibited.
- Must lock firearms in an area inaccessible to children and separate from ammunition.
- May not allow children to have contact with ducks, chickens, reptiles, or amphibians.
- Smoking is prohibited during hours of operation.

Transportation

- Parental permission is required for transportation and field trips.
- Age-appropriate child and adult safety restraints are required.
- First-aid supplies and a fire extinguisher are required.

Child medical requirements

- Children must be immunized according to the Texas Department of Health.
- Requirements for TB tests vary by region and programs in certain areas will be required by the Texas Department of Health to have proof that a child is free from TB.
- Must have a statement of health from a professional from no more than one year prior to enrollment date.
- Written permission to dispense medication is required if provider chooses to dispense it.
- Children in a licensed child care home who are 4 years and older by September 1 must have hearing and vision screening.

Care for sick children

- In case of illness, parents must be notified and the child should be isolated and picked up by the parent as soon as possible.
- An ill child may not be permitted if the illness:
 - Prevents the child from participating comfortably in child care activities
 - Requires a greater need for care than the provider can give without compromising the health, safety, and supervision of the other children in care
 - Is accompanied by diarrhea, lethargy, abnormal breathing, two or more vomiting episodes within a 24-hour period, rash with fever, or an oral temperature of 100.4 degrees or higher
 - Is contagious and the child has not been cleared by a health care professional
 - Possesses other symptoms of a potentially serious nature