

HUMAN RESOURCES CODE

TITLE 2. HUMAN SERVICES AND PROTECTIVE SERVICES IN GENERAL

SUBTITLE D. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES; CHILD  
WELFARE AND PROTECTIVE SERVICES

CHAPTER 44. ADMINISTRATION OF FEDERAL AND STATE DAY-CARE PROGRAMS

SUBCHAPTER A. FEDERALLY ESTABLISHED DAY-CARE PROGRAMS

Sec. 44.001. DESIGNATED AGENCY. The Texas Workforce Commission is the state agency designated to administer a day-care program established by federal law and financed partially or totally by federal funds.

Acts 1979, 66th Leg., p. 2370, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 76, Sec. 8.024, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.64, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.252, eff. April 2, 2015.

Sec. 44.002. ADMINISTRATIVE RULES. (a) The Texas Workforce Commission shall promulgate rules to carry out the administrative provisions of the program consistent with federal law and regulations.

(b) The rules must include procedures to allow operators of day-care centers to review and comment on proposed rules and policies.

Acts 1979, 66th Leg., p. 2370, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th leg., ch. 717, Sec. 1, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 76, Sec. 8.025, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.65, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 228 (H.B. [2961](#)), Sec. 1, eff. May 27, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.252, eff.

April 2, 2015.

Sec. 44.003. ADMINISTRATION OF FEDERAL-LOCAL PROGRAM.

(a) If the program is to be funded through political subdivisions of the state or local agencies approved by the Texas Workforce Commission matching federal grants, the Texas Workforce Commission shall promulgate procedures for effective delivery of services consistent with this section and with federal law and regulations.

(b) If the services are provided through contracting with operators of day-care programs on request from political subdivisions or local agencies, the Texas Workforce Commission may not promulgate standards for selection of the type of programs more restrictive than required by federal law or regulations.

(c) The executive director of the Texas Workforce Commission shall establish an accounting system consistent with federal law and regulations which will provide that an operator of a day-care program contracting with the Texas Workforce Commission:

(1) shall receive prepayment in accordance with policies and procedures mutually agreed on by the comptroller and the Texas Workforce Commission; and

(2) shall be paid on the basis of legitimate and reasonable expenses, insofar as possible, given federal regulations and department policy, instead of being paid on the basis of the number of children attending or the number of children enrolled in the program, provided that on being monitored by the Texas Workforce Commission, the contracting operator can substantiate that there were sufficient preparations in the development of the services offered.

(d) The executive director of the Texas Workforce Commission shall establish procedures for hearing complaints by operators of day-care programs contracting with the Texas Workforce Commission relating to the failure of the Texas Workforce Commission to comply with Subsection (c).

Acts 1979, 66th Leg., p. 2370, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 76, Sec. 8.026, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.66, eff. Sept. 1,

1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.252, eff. April 2, 2015.

#### SUBCHAPTER B. DAY-CARE CENTERS

Sec. 44.031. ESTABLISHMENT. (a) The Texas Workforce Commission may establish day-care centers for all children who qualify for services under Section 44.032. Where in the opinion of the executive director of the Texas Workforce Commission it appears feasible for the furtherance of the objectives of this legislation, the Texas Workforce Commission may establish cooperative agreements with other state agencies.

(b) The Texas Workforce Commission is not required to establish a day-care center or to provide services under this subchapter unless funds are appropriated for that purpose.

Added by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.027, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.67, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.252, eff. April 2, 2015.

Sec. 44.032. ELIGIBILITY. (a) Except as provided by Subsection (b), to be eligible for admission to a day-care center authorized under this subchapter, a child must be at least six weeks of age and:

(1) the child must be eligible for state assistance under the aid to families with dependent children program and the child's caretaker must be employed, enrolled in a job training program authorized by the Texas Workforce Commission, registered to work by the Texas Workforce Commission, or permanently and totally disabled; or

(2) the child must be from a family eligible under federal law or regulations to participate in a partially or totally

federally funded welfare or social services program.

(b) Additional children of the same age group may also be admitted to a center under additional standards established by the Texas Workforce Commission.

(c) To reduce rapid turnover of children in care and to ensure maximum stability for the child to the extent possible within federal guidelines, once a child meets the initial eligibility standards and is enrolled in a child-care program, the child remains eligible for not less than one year after the date of enrollment.

Added by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.028, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.68, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.252, eff. April 2, 2015.

Sec. 44.033. FEES. (a) A fee for services rendered by the day-care center may not be charged for a child who is eligible for state assistance under the aid to families with dependent children program.

(b) A fee that is scaled to family income for services rendered by the day-care program may be charged for a child who is not eligible for state assistance under the aid to families with dependent children program.

Added by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.252, eff. April 2, 2015.

Sec. 44.034. STANDARDS; RECOMMENDATIONS. (a) If the Texas Workforce Commission establishes day-care centers under this subchapter, the department shall prescribe standards of operation and performance for the centers that will ensure proper nutrition, social adjustment, health services, and appropriate growth and development for children admitted.

(b) The executive director of the Texas Workforce Commission shall prescribe procedures for receiving recommendations relating to the operation of the centers from parents, guardians, or custodians of children admitted to the centers, operators of the centers, and other interested persons.

Added by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.029, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.69, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.252, eff. April 2, 2015.

Sec. 44.035. CONTRACTS. (a) The executive director of the Texas Workforce Commission may contract for services authorized under this subchapter with an individual, organization, association, or corporation meeting the standards established under Section 44.034 and the standards for child-care facilities licensed by the department.

(b) The fees paid to the center under the contract may not exceed the amount it would cost the state to provide the same services.

(c) The executive director of the Texas Workforce Commission shall terminate a contract with a day-care center that fails to maintain the department's standards.

(d) When the executive director of the Texas Workforce Commission intends to cancel a contract with a day-care center, the executive director shall give the center reasonable notice and an opportunity for a hearing if one is requested. The Texas Workforce Commission shall adopt rules consistent with Chapter 2001, Government Code, to implement this section. Hearings under this section are contested cases under that chapter.

Added by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), 8.030, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.70, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.252, eff. April 2, 2015.

Sec. 44.036. ANNUAL EVALUATION OF DAY-CARE CENTERS. If the Texas Workforce Commission establishes day-care centers or provides services under this subchapter, the Texas Workforce Commission, with the assistance of the department, shall evaluate the performance of the centers each state fiscal year. This evaluation shall be sent to the governor and to the Legislative Budget Board not later than the 100th day after the last day of the state fiscal year covered by the evaluation.

Added by Acts 1987, 70th Leg., ch. 717, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.031, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.71, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.252, eff. April 2, 2015.