

ABUSE PREVENTION SYSTEMS: YOUTH CAMP ACT

Updates to 25 TAC §§ 265.11, .12, .15

25 TAC § 265.11(25): Youth camp--A facility or property, other than a facility required to be licensed by the Health and Human Services Commission that:

- (A) has the general characteristics of a day camp,¹ resident camp,² or travel camp;³
- (B) provides supervision, and instruction in recreational, athletic, religious, or educational activities;
- (C) during a camp session, offers at least two youth camp specialized activities in an outdoor setting;
[previously: "schedules activities so that campers can spend a minimum of 60% of their time out-of-doors between the hours of 7:00 a.m. and 10:00 p.m.]
- (D) accommodates at least five minors during each camp session who attend or temporarily reside at the camp, apart from parents or guardians, for all or part of at least four consecutive days;
- (E) operates as a youth camp for four consecutive hours or more per day;
[previously: operates as a youth camp for more than four consecutive hours per day]
- (F) operates as a youth camp only during school vacation periods;
- (G) operates as a youth camp for no more than 120 days each calendar year; and

¹ **Day camp**--A camp that operates during the day or any portion of the day between 7:00 a.m. and 10:00 p.m. for four or more consecutive days and that offers no more than two overnight stays during each camp session. To be eligible to be licensed as a youth camp, the camp's schedule shall be structured so that each camper attends for four hours or more per day for four consecutive days. The term does not include a facility that is required to be licensed with the Health and Human Services Commission. 25 TAC § 265.11(6).

² **Resident camp**--A camp that for a period of four or more consecutive days continuously provides residential services to each camper, including overnight accommodations for at least three consecutive nights. 25 TAC § 265.11(17).

³ **Travel camp**--A day or resident camp, lasting for four or more consecutive days, that begins and ends at a fixed location, but may move from location to location on a daily basis. 25 TAC § 265.11(22).

(H) is not a facility or program operated by or on the campus of an institution of higher education or a private or independent institution of higher education as those terms are defined by the Texas Education Code, §61.003, that is regularly inspected by one or more local governmental entities for compliance with health and safety standards.

Updates:

- The current language in section (25) combines the language previously appearing in sections (24) and (25).
- Subpart (C) is an updated version of part (25)(I) and removes the hours and percentages. See above for language in previous version.
- “Youth camp specialized activities” is defined as “A camp activity such as waterfront activities, archery, horseback riding, challenge courses, or riflery that requires special technical skills, equipment, or safety regulations, and a high level of adult supervision at all times.” See 25 TAC § 265.11(26).
 - This phrase provides further guidance on what constitutes a youth camp – as opposed to a day camp, travel camp, or resident camp. The phrase “high level of adult supervision at all times” was added in the most recent amendments to the text.

25 TAC § 265.12. Directors, Supervisors, and Staff

(a) On-site director required. Each youth camp shall be under the on-site direction of a qualified adult with at least two years of experience working with children. The director shall be knowledgeable in camp administrative practices and shall have at least one year of leadership experience with an organized youth camp, school or other youth-serving organization, such as the Boy Scouts of America or Young Men's Christian Association (YMCA).

(b) Adult supervisors. Each youth camp shall have at least one adult supervisor who is responsible for the supervision of no more than ten children in the camp. For any youth camp

Updates to subpart (b):

- The phrase “youth camp specialized activity” is an update to the previous language of “hazardous activity”
- “Youth camp specialized activities” is defined as “A camp activity such as waterfront activities, archery, horseback riding, challenge courses, or riflery that requires special technical skills, equipment, or safety regulations, and a high level of adult supervision at all times.” See 25 TAC § 265.11(26).
- The third sentence has been updated to state simply “at least one adult supervisor to every 25 campers” instead of “each camp shall establish its own guidelines, but not less than one adult supervisor to every 25 campers”

specialized activity, the supervisor(s) shall be in the immediate vicinity (within sight and/or hearing) of the campers. An "all camp" sedentary activity, not requiring physical activity must have at least one adult supervisor to every 25 campers. The camp director shall not be included in the supervisor to camper ratio in camps serving over 50 campers at one time.

(c) Supervision of youth camp specialized activity. Youth camp specialized activities shall be conducted by and under the direct supervision of a qualified adult capable of implementing safety standards established by the department or the camp who shall have either documented training or at least two years documented experience in conducting the activity.

(d) Written personnel policies and practices. A camp shall have written personnel policies and practices for both campers and staff. Supervisors shall be informed of these policies and practices prior to assuming responsibility for campers.

(e) Staff member character and integrity records. The camp management shall ascertain and have on record information, such as a letter of reference, attesting to the character and integrity of each staff member, and information, such as training certificates, attesting to the ability of each staff member to perform the tasks required in his or her position.

(f) Criminal conviction and sex offender background check requirements. The camp management shall have on file a record of any criminal conviction and a sex offender registration check for all adult staff members and all adult volunteers working at the camp before the staff member or volunteer has unsupervised contact with children at the camp. A criminal background check and sex offender registration check must be on file for any other adult that will have unsupervised contact with campers, other than their own children. If the records are located off-site, a letter from the national or regional headquarters of the camp organization stating the names of individuals at the camp site for whom background checks have been conducted, shall be available at the camp site. All records of criminal convictions and written evaluations for a camp or camping organization shall be made available to department personnel within two business days upon request. Youth camps are responsible for ensuring that criminal and sex offender background checks have been conducted for international staff obtained through the J-1 visa process, and that documentation of these checks are located with other staff background checks. Records of criminal convictions and sex offender status shall be obtained by:

(1) performing an annual criminal background check using a criminal history database for each adult staff member's and each adult volunteer's permanent residence. If the staff member or adult volunteer has a temporary or an educational residence, an annual criminal background check shall include searching under the permanent, temporary and educational address, as applicable. The criminal history database used for the criminal background check is to be based on the individual's residences, and may include state, national or international databases. Documentation of the search results, whether or not the results are positive, shall be maintained with the sex offender background documentation; and

(2) performing an annual background check using a sex offender registration database for each adult staff member's and each adult volunteer's permanent residence and educational residence if applicable, such as the TXDPS - Sex Offender Registry, which may be accessed at Texas Department of Public Safety - Crime Records Service. Documentation of the search results, whether or not the results are positive, shall be maintained with the criminal background documentation.

Updates to subpart (f):

- The sentence beginning “A criminal background check” is a new addition. This provides a new requirement for the required checks to be on file with the camp (not just a verification that the checks have been completed).
- The rest of the language has remained the same.

(g) Persons whose presence at a youth camp shall be precluded. Youth camps shall not employ paid or unpaid staff members or volunteers at a youth camp, or permit any person to have unsupervised contact with campers other than their own children, if the person has the following types of criminal convictions or deferred adjudications: a misdemeanor or felony under Texas Penal Code, Title 5 (Offenses Against the Person) **excluding a Class C misdemeanor under §22.01 (Assault)**, Title 6 (Offenses Against the Family), Chapter 29 (Robbery) of Title 7, Chapter 43 (Public Indecency) or §42.072 (Stalking) of Title 9, §15.031 (Criminal Solicitation of

Updates to subpart (g):

- The exclusion of a Class C misdemeanor under § 22.01 (Assault) is a new addition.

a Minor) of Title 4, §38.17 (Failure to Stop or Report Aggravated Sexual Assault of Child) of Title 8, or any like offense under the law of another state or under federal law.

(h) Persons whose presence at a youth camp may be precluded.

(1) Youth camps may preclude a person from being a paid or unpaid staff member or volunteer at a youth camp, or may preclude a person from having unsupervised contact with campers other than the person's own children, if the person has the following types of criminal convictions or deferred adjudications:

(A) a Class C misdemeanor committed within the past ten years under §22.01 (Assault) of Title 5 of the Texas Penal Code, or any like offense under the law of another state or under federal law;

(B) a misdemeanor or felony committed within the past ten years under §46.13 (Making a Firearm Accessible to a Child) or Chapter 49 (Intoxication and Alcoholic Beverage Offenses) of Title 10 of the Texas Penal Code, or any like offense under the law of another state or under federal law; or

(C) any other felony under the Texas Penal Code or any like offense under the law of another state or under federal law that the person committed within the past ten years.

(2) Camp management shall have on file a written evaluation by two or more camp executive staff for any staff member or volunteer whose presence at the youth camp may be precluded under this subsection showing that management has determined the person is suitable for a position at the youth camp despite a criminal conviction or deferred adjudication.

Updates to subpart (h):

- Subpart (A) under subpart (1) is a new addition.
- The phrase “by two or more camp executive staff” is a new addition in subpart (2).
- The phrase “whose presence at the youth camp may be precluded under this subsection” in subpart (2) is a rephrasing of the previous phrasing specifically referring to “paragraph (1) of this subsection.” It does not appear to change the meaning of the section.

(i) Sexual abuse and child molestation awareness training and examination program.

(1) A youth camp licensee may not employ or accept the volunteer service of an individual for a position involving contact with campers at a youth camp, or permit any person to have unsupervised contact with campers, unless:

(A) the individual submits to the licensee or the youth camp has on file documentation that verifies the individual within the preceding two years has successfully completed the training and examination program required by this subsection; or

(B) the individual successfully completes the youth camp's training and examination program approved by the department during the individual's first workweek, and prior to any contact with campers unless supervised during the first workweek by an adult who has successfully completed the program.

(2) For purposes of this subsection, the term "contact with campers" does not include visitors such as a guest speaker, an entertainer, or a parent who visits for a limited purpose or a limited time if the visitor has no direct and unsupervised contact with campers. A visitor may have direct and unsupervised contact with a camper to whom the visitor is related. A camp may require training and an examination for visitors if it chooses.

(3) A youth camp licensee shall retain in the person's personnel record a copy of the documentation required or issued under paragraph (1)(A) and (B) of this subsection for each employee or volunteer until the second anniversary of the examination date.

(4) Prior to their use, the department may approve training and examination programs offered by trainers under contract with youth camps, by online training organizations, or programs offered in another format, such as a videotape, authorized by the department.

(5) A training and examination program on sexual abuse and child molestation approved by the department shall at a minimum include training and an examination on:

(A) the definitions and effects of sexual abuse and child molestation;

(B) the typical patterns of behavior and methods of operation of child molesters and sex offenders that put children at risk;

(C) the warning signs and symptoms associated with sexual abuse or child molestation, recognition of the signs and symptoms, and the recommended methods of reporting suspected abuse;

(D) the recommended rules and procedures for youth camps to implement to address, reduce, prevent, and report suspected sexual abuse or child molestation;

(E) the need to minimize unsupervised encounters between adults and minors; and

(F) the potential for consensual and nonconsensual sexual activity between campers, steps to prevent sexual activity between campers, and how to respond if sexual activity between campers occurs.

(6) The training program shall last for a minimum of one hour and discuss each of the topics described in paragraph (5) of this subsection.

(7) The examination shall consist of a minimum of 25 questions which shall cover each of the topics described in paragraph (5) of this subsection.

(8) To successfully complete the training program, each employee or volunteer shall achieve a score of 70% or more correct on an individual examination. If the examination is taken on-line, the employee or volunteer shall retain a certificate of completion indicating they successfully completed the course.

(9) The department may assess a fee of \$125 to each applicant to cover the costs of the department's initial review and each follow-up review of a training and examination program.

(10) Applications and fees shall be mailed to the Environmental and Sanitation Licensing Group, Department of State Health Services, Mail Code 2003, P.O. Box 149347, Austin, Texas 78714-9347. Applications may be obtained by calling the Environmental and Sanitation Licensing Group at (512) 834-6600 or may be downloaded from <http://www.dshs.state.tx.us/youthcamp/default.shtm>.

(11) The department, at least every five years from the date of initial approval, shall review each training and examination program approved by the department to ensure the program continues to meet the criteria and guidelines established under this subsection.

(j) Supervised contact with campers.

(1) A person supervising another person who is prohibited from having unsupervised contact with campers:

(A) may include one or more paid or unpaid members of camp staff or management; law enforcement officers; security personnel; lifeguards or other responsible staff at any off-site facility; or parents or other adults;

(B) must be charged with responsibility to monitor, oversee, or supervise the person on behalf of the licensee or camp management; and

(C) must have the ability and means to summon competent assistance at all times while remaining within sight and hearing distance of the supervised person.

(2) A person who is prohibited from having unsupervised contact with campers must be supervised at all times during which that person has or might have any contact with one or more campers, whether intentional or unintentional, and whether part of scheduled camp activities or not. The potential for contact with campers by a person is presumed at all times during which one or more campers are present at the facility at which the person is present unless there is an impassable barrier between them.

(k) Records retention. All applications, background check reports, training documentation, and other required personnel documentation required by this subchapter shall be maintained in hard copy or electronic format for a minimum of two years following a person's last day of service. If the youth camp is notified of an investigation or conviction of a camp staff member for an act of sexual abuse, as defined by §21.02 of the Texas Penal Code, which occurred at the camp, the camp shall retain all records related to the investigation or conviction until the department notifies the camp that the record retention is no longer required.

25 TAC § 265.15. Medical and Nursing Care [including only subpart (d)]

(d) Requirement to report incidents of abuse or neglect of a minor.

(1) Requirement to report incidents of abuse or neglect of a minor at a youth camp.

(A) If a person, including any member of camp staff, a camp counselor, or camp director has cause to believe that a minor has been or may have been abused or neglected as those terms are defined in the **Texas** Family Code, Chapter 261, and the abuse or neglect occurred at the youth camp, then that person shall immediately make a report, in accordance with Texas Family Code, §261.101(a) to **one of the appropriate agencies** designated by Texas Family Code, §261.103. **Accordingly, a report shall be made to:**

(i) any local or state law enforcement agency;

(ii) the Department of Family and Protective Services Abuse Hotline, which may be contacted at (800) 252-5400 or through the secure web site <http://www.txabusehotline.org/>; or

(iii) the Department of State Health Services.

(B) If a person making a report in accordance with subparagraph (A) of this paragraph has not already notified the Department of State Health Services as part of such a report, the person shall also immediately notify the Department of State Health Services' Policy, Standards, and Quality Assurance Unit by phone at (512) 834-6788, by fax at (512) 834-6707, or by email at PHSCPS@dshs.texas.gov that a minor has been or may have been abused or neglected at a youth camp.

Updates to subpart (d)(1):

- Paragraph (1) has been reorganized to include subparts. The language has not changed, except as noted herein.
- The word “Texas” has been added in front of “Family Code” in subpart (A).
- The phrase “one of the appropriate agencies” has been substituted for “Health and Human Services Commission Office of Inspector General” in subpart (A).
- The instructions for who the report *shall* be made to have been updated. Previously, the report shall be made to be made to the Health and Human Services Commission Office of Inspector General and *may* be made to local or state law enforcement agency or any other agency listed in TFC § 261.103.
- Subpart (B) is a new addition.

(2) Requirement to report incidents of abuse or neglect of a minor other than at a youth camp. If a person, including any member of camp staff, a camp counselor, or camp director has cause to believe that a minor has been or may have been abused or neglected as those terms are defined in the **Texas** Family Code, Chapter 261, and the abuse or neglect did not occur at the youth camp, then that person shall immediately make a report, in accordance with **Texas** Family Code, §261.103.

(A) Except as provided by subparagraphs (B), (C) and (D) of this paragraph, a report shall be made to:

(i) any local or state law enforcement agency;

(ii) the Department of Family and Protective Services Abuse Hotline, which may be contacted at (800) 252-5400 or through the secure web site <http://www.txabusehotline.org/>; or

(iii) the agency designated by the court to be responsible for the protection of children.

(B) A report may be made to the **Texas Juvenile Justice Department** instead of the entities listed under subparagraph (A) of this paragraph if the report is based on information provided by a child while under the supervision of the **Texas Juvenile Justice Department** concerning the child's alleged abuse of another child.

(C) Notwithstanding subparagraph (A) of this paragraph, a report, other than a report under subparagraph (D) of this paragraph, shall be made to the Department of Family and Protective Services if the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child.

(D) A report of alleged abuse, neglect, or exploitation in any juvenile justice program or facility shall be made to the **Texas Juvenile Justice Department** and a local law enforcement agency for investigation.

(3) The youth camp must develop and maintain a written policy regarding the method for reporting to the Department of State Health Services suspected abuse or neglect of a minor occurring at the camp. This policy must be maintained on-site.

(4) The Department of State Health Services, by policy, shall forward a report of alleged abuse of a camper that is received by the Department of State Health Services to the Department of Family and Protective Services or another appropriate agency.

Updates to subpart (d)(2):

- The word “Texas” has been added in front of “Family Code” in paragraph (2).
- The “Texas Juvenile Justice Department” has been substituted for the “Texas Youth Commission” in subpart (B).
- The “Texas Juvenile Justice Department” has been substituted for “Texas Juvenile Probation Commission” in subpart (D).