

Legend: (Proposed New Rules)
Regular Print = Proposed new language

§265.401. General Provisions.

Scope and purpose of rules. The purpose of this subchapter is to establish requirements relating to sexual abuse and child molestation training and examination for employees of certain programs for minors operated by or held on the campus of an institution of higher education or a private or independent institution of higher education, and to provide penalties. This subchapter implements Texas Education Code, Chapter 51, Subchapter Z, §51.976, Training and Examination Program for Employees of Campus Programs for Minors on Warning Signs of Sexual Abuse and Child Molestation.

§265.402. Definitions. The following words and terms shall have the following meaning when used in this subchapter, unless the context indicates otherwise.

(1) Act--Texas Education Code, Chapter 51, Subchapter Z, §51.976, Training And Examination Program For Employees of Campus Programs For Minors on Warning Signs Of Sexual Abuse and Child Molestation.

(2) Camper--A minor, under the age of 18 years, who is attending a campus program for minors.

(3) Campus program for minors--A program that:

(A) is operated by or on the campus of an institution of higher education or a private or independent institution of higher education;

(B) offers recreational, athletic, religious, or educational activities for at least 20 campers who:

(i) are not enrolled at the institution;

(ii) attend or temporarily reside at the camp for all or part of at least four days; and

(C) is not a day camp or youth camp as defined by Texas Health and Safety Code, §141.002, or a facility or program required to be licensed by the Department of Family and Protective Services.

(4) Department--Department of State Health Services.

(5) Employee--A person of any age who receives pay, a stipend, reimbursement of tuition, services, credit including credit for books or tuition, course credit, or any other thing of value in exchange for work or service at a campus program for minors.

(6) Institution of higher education--Has the meaning assigned by Texas Education Code, §61.003.

(7) Private or independent institution of higher education--Has the meaning assigned by Texas Education Code, §61.003.

(8) Program operator--A person who owns, operates, or supervises a campus program for minors, regardless of whether it is operated on a for-profit or non-profit basis.

(9) Training and examination program on sexual abuse and child molestation--A program approved by the department under §265.404 of this title (relating to Training and Examination Program on Sexual Abuse and Child Molestation).

§265.403. Program Operators.

(a) A program operator may not employ an individual in a position involving contact with campers at a campus program for minors unless:

(1) the individual submits to the program operator or the campus program for minors has on file documentation verifying that within the preceding two years of the beginning date of employment, the individual successfully completed the required training and examination program on sexual abuse and child molestation; or

(2) the individual successfully completes during the individual's first five days of employment the required training and examination program on sexual abuse and child molestation.

(b) For purposes of this subsection, the term "contact with campers" does not include an employee acting as a guest speaker, an entertainer, or fulfilling any other role who visits for a limited purpose or a limited time if the employee has no direct and unsupervised interaction with campers. A program operator may require training and an examination for visitors, including parents, if it chooses.

(c) Subsection (a) of this section does not apply to an individual who is a student enrolled at the institution of higher education or private or independent institution of higher education that operates the campus program for minors or at which the campus program is conducted and whose contact with campers is limited to a single class of short duration.

(d) A program operator must:

(1) submit to the department on the form provided by the department and within five days of the start of the campus program for minors verification that each employee of the campus program for minors has complied with the requirements of this section; and

(2) retain in the operator's records a copy of the documentation required or issued under subsection (a) for each employee until the second anniversary of the examination date.

(e) A person applying for or holding an employee position involving contact with campers at a campus program for minors must successfully complete the training and examination program on sexual abuse and child molestation during the applicable period prescribed by subsection (a) of this section.

§265.404. Training and Examination Program on Sexual Abuse and Child Molestation.

(a) A training and examination program on sexual abuse and child molestation must be approved by the department prior to being offered and shall at a minimum include training and an examination on:

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

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

(3) 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;

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

(5) the need to minimize one-on-one isolated encounters between an adult and a minor or between two minors.

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

(c) The examination shall consist of a minimum of 25 questions that cover each of the topics described in subsection (a) of this section.

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

(e) Applicants for a training and examination program required to be approved under subsection (a) of this section shall pay a fee of \$125 to cover the costs of the department's initial review and an additional \$125 fee for each follow-up review of a training and examination program.

(f) Applications shall be made on forms provided by the department 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. Application forms 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>.

(g) 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 section.

(h) A program operator shall consider the costs of compliance with this section in determining any charges or fees imposed and collected for participation in the campus program for minors.

§265.405. Civil Penalty; Injunction.

(a) The department may investigate a person the department suspects of violating the Act, a rule, or an order adopted under the Act.

(b) A person violating the Act, a rule, or an order adopted under the Act is subject to a civil penalty of not less than \$50 or more than \$1,000 for each act of violation.

(c) If it appears that a person has violated, is violating, or is threatening to violate the Act or a rule or order adopted under the Act, the department may bring a civil action in a district court for injunctive relief, a civil penalty, or both.

(d) The district court, upon finding that the person is violating the Act, a rule, or an order adopted under the Act, shall grant injunctive relief, assess a civil penalty, or both, as warranted by the facts.

(e) The department may petition a district court for a temporary restraining order to immediately halt a violation or other action creating an emergency condition if it appears that a person is:

(1) violating or threatening to violate the Act, a rule, or an order adopted under the Act; or

(2) taking any other action that creates an emergency condition that constitutes an imminent danger to the health, safety, or welfare of campers at a campus program for minors.

(f) An action under this section may be brought in the county in which the defendant resides or in which the violation or threat of violation occurs.

(g) If an action for injunctive relief under this section is granted by the court, the court may grant any prohibitory or mandatory injunction warranted by the facts, including temporary restraining orders, temporary injunctions, and permanent injunctions. The court shall grant injunctive relief without a bond or other undertaking by the department.

(h) An appellate court shall give precedence to an action brought under this section over other cases of a different nature on the docket of the court.

(i) The program operator and the institution that operate the campus program for minors or at which the campus program is conducted are immune from civil or criminal liability for any act or omission of an employee for which the employee is immune under Texas Family Code, §261.106.