

TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 26 TAC §745.8801(b)

Decision or action	Subject of the review
<u>(1) A deficiency in a minimum standard, rule, or statute</u>	<u>Whether the operation was deficient in the identified minimum standard, rule, or statute.</u>
<u>(2) The imposition of an enforcement action</u>	<u>Whether the enforcement action is appropriate based on factors identified in §745.8605 of this chapter (relating to When can Licensing recommend or impose an enforcement action against my operation?) and any other rule in Subchapter L of this chapter (relating to Enforcement Actions) that relates to the imposition of the enforcement action. We will not consider whether evidence supports a deficiency that is a basis for the enforcement action unless we are combining the review of the enforcement action with a review of the deficiency.</u>
<u>(3) A controlling person designation</u>	<u>Whether the person meets the definition of "controlling person" as described in §745.901 of this chapter (relating to Who is a controlling person at a child-care operation?).</u>
<u>(4) A denial, amendment, or revocation of a waiver or variance or disagreement with the original expiration date or conditions associated with a waiver or variance</u>	<p><u>Whether Child Care Regulation correctly applied the factors identified in the following rules that apply to the decision:</u></p> <ul style="list-style-type: none"> • <u>§745.8311 of this chapter (relating to What conditions may Licensing place on an approved waiver or variance);</u> • <u>§745.8313 of this chapter (relating to What factors do we consider when deciding whether to grant a waiver or variance?);</u> • <u>§745.8315 of this chapter (relating to What additional factors does Licensing consider when deciding whether to grant a waiver or variance for a foster home?); and</u>

	<ul style="list-style-type: none"> • <u>§745.8317 of this chapter (relating to What factors do we consider when determining the expiration date and conditions for a waiver or variance?).</u>
<u>(5) A denial of voluntary suspension</u>	<u>Whether the decision was appropriate under §745.5155 of this chapter (relating to What actions may Licensing take after receiving written notice that you are requesting a voluntary suspension?).</u>
<u>(6) The addition of a condition to a probation that the operation is currently on.</u>	<u>Whether the addition of the condition was appropriate. We will not consider whether evidence supports a deficiency that is a basis for the additional condition unless we are combining the review of the addition with a review of the deficiency.</u>
<u>(7) A determination that a program is not exempt from regulation.</u>	<u>Whether the program qualifies for an exemption.</u>
<u>(8) A determination that the person poses an immediate threat or danger to the health or safety of children because of:</u> <u>(A) A juvenile adjudication; or</u> <u>(B) Another issue unrelated to:</u> <u>(i) A criminal conviction or an arrest or charge that may result in a conviction;</u> <u>(ii) A finding of child abuse, neglect, or exploitation by the Texas Department of Family and Protective Services or an open investigation that may result in such a finding; or</u> <u>(iii) A finding of child abuse, neglect, or exploitation by the Texas Health and Human Services Commission for which the person</u>	<u>Whether the application of the factors listed in §745.751 of this chapter (relating to What factors does Licensing consider when determining if a person or an operation is an immediate threat to the health or safety of children?) was correct.</u>

<p><u>has the right to request due process or an open investigation that may result in such a finding.</u></p>	
<p><u>(9) Remedial action against an administrator's license or an administrator's license application.</u></p>	<p><u>Whether the remedial action is appropriate based on factors identified in §745.9037 of this chapter (relating to Under what circumstances may Licensing take remedial action against my administrator's license or administrator's license application?) and any other rule in Subchapter N of this chapter (relating to Administrator's Licensing) that relates to the imposition of the remedial action.</u></p>

Figure: 26 TAC §745.8803(a)

Decision or action in dispute:	Person who can request an administrative review to dispute the decision or action:
<p>(1) Any of the following concerning an operation or prospective operation:</p> <p>(A) <u>The [A] denial, amendment, or revocation of a waiver or variance or disagreement with the original expiration date or conditions associated with a waiver or variance;</u></p> <p>(B) The citation of a deficiency;</p> <p>(C) The denial of a voluntary suspension.</p> <p>(D) The imposition of probation or an adverse action, subject to the limitations in subsection (b) of this section; or</p> <p>(E) The addition of a condition to a corrective action plan for a probation that the operation is currently on.</p>	The applicant, or an owner, partner, governing body, director, licensed administrator, or designee of the operation.
(2) A determination that a program is not exempt from regulation.	The person or entity that requested the exemption determination.
(3) The imposition of a remedial action listed in §745.9031 of this chapter (relating to What remedial actions can Licensing take against my administrator's license?).	The applicant or licensed administrator.
(4) A controlling person designation.	The person designated as a controlling person.
<p>(5) A determination that the person poses an immediate threat or danger to the health or safety of children because of:</p> <p>(A) A juvenile adjudication; or</p> <p>(B) Another issue unrelated to:</p> <p>(i) <u>A criminal [history] conviction or an arrest or charge that may result in a conviction;</u></p> <p>(ii) <u>A finding of child abuse, neglect, or exploitation by the Texas [a] Department of Family</u></p>	The person determined to pose the immediate threat or danger to the health or safety of children.

and Protective Services or an open [~~child abuse, neglect, or exploitation~~] investigation that may result in such a finding; or

(ii) A finding of child abuse, neglect, or exploitation by the Texas Health and Human Services Commission for which the person has the right to request due process or an open investigation that may result in such a finding.

Figure: 26 TAC §745.8835(a)

Decision or action in dispute:	Person who can request a due process hearing to dispute the decision or action:
(1) The imposition of either of the following against an operation: (A) An adverse action, subject to the limitations in subsection (b) of this section; or (B) An administrative penalty.	The applicant or an owner, partner, governing body, director, licensed administrator, or designee of the operation.
(2) A denial, refusal to renew, suspension, or revocation of an administrator's license.	The applicant or licensed administrator.
(3) The designation of a person as a controlling person.	The person designated as a controlling person.
(4) The imposition of an administrative penalty against a controlling person.	The controlling person that the administrative penalty was imposed upon.
(5) A Central Registry finding of child abuse, neglect, or exploitation that has not been sustained and is the result of a background check conducted under Subchapter F of this chapter (relating to Background Checks).	The subject of the background check.
(6) A determination that the person poses an immediate threat or danger to the health or safety of children because of: (A) A juvenile adjudication; or (B) Another issue unrelated to: (i) <u>A criminal conviction [history] or an arrest or charge that may result in a conviction;</u> (ii) <u>A finding of child abuse, neglect, or exploitation the [a] Texas Department of Family and Protective Services or an open [child abuse, neglect, or exploitation] investigation that may result in such a finding; or</u> (iii) <u>A finding of child abuse, neglect, or exploitation by the Texas Health and</u>	The person determined to pose the immediate threat or danger.

<u>Human Services Commission for which the person has the right to request due process or an open investigation that may result in such a finding.</u>	
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