



TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

COMMISSIONER
Anne Heiligenstein

March 5, 2009

Texas Home School Coalition
Tim Lambert, President
P. O. Box 6747
Lubbock, Texas 79493

Dear Mr. Lambert:

This letter is in response to the inquiry on an exemption determination for home school support groups and/or co-ops working with homeschooling students.

The Department of Family and Protective Services Child Care Licensing, has determined that one of these programs, SHAPE Academy operating at Lake Granbury Christian Temple, is not subject to DFPS regulation. Our determination was based on Texas Human Resources Code, Chapter 42, §42.041(b)(11) and the Texas Administrative Code, Chapter 745, §745.119(5).

The Texas Human Resources Code is as follows:

Sec. 42.041. **REQUIRED LICENSE OR ACCREDITATION.** (a) No person may operate a child-care facility or child-placing agency without a license issued by the department.

(b) This section does not apply to:

(11) subject to Subsection (b-1), an educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility both of which do not provide custodial care for more than two hours maximum per day, and that offers educational programs for children age four and above in one or more of the following: preschool, kindergarten through at least grade three, elementary, or secondary grades;

(b-1) The following exemptions apply only to an educational facility that operates in a county that has a population of less than 25,000:

(1) the exemption provided under Subsection (b)(7) to a facility accredited by an accreditation body that is a member of the Texas Private School Accreditation Commission, an after-school program operated directly by the accredited educational facility, or an after-school program operated by another entity under contract with the accredited educational facility; and

(2) the exemption provided under Subsection (b)(11) to a facility that offers educational programs for children who are four years of age.

The Texas Administrative Code Section that applies is as follows:
TAC §745.119

Mr. Tim Lambert
March 5, 2009
Page 2

What educational facilities are exempt from licensing regulation?

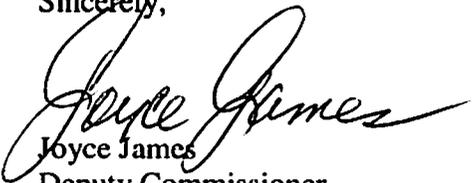
The following educational facilities and programs are exempt from our regulation:

- (5) Private Educational Facility, Including an Educational Facility that is Religious in Nature
- (A) The educational facility offers an educational program;
 - (B) If the educational facility is located in a county that has a population of less than 25,000, all children in the program are at least four-years old; or if the educational facility is located in a county that has a population of 25,000 or more, all children in the program are at least kindergarten age;
 - (C) No more than two hours total of child day care is provided before or after the customary school day in the community; and
 - (D) It operates one or more of the following:
 - (i) Preschool or kindergarten through at least grade three;
 - (ii) Grades 9 through 12; or
 - (iii) The same pattern of public school grade clustering as the local school district elementary grades (1 through 6).

Because matters of this nature are reviewed at a regional and district level and each program may operate differently, CCL cannot offer a blanket exemption determination to all groups working with your students based on the decision rendered for SHAPE academy. Each program would need to request an exemption based on their individual program requirements. It is important to note that if an educational program were to admit children younger than five years of age, not offer education from kindergarten through grade three, elementary, or secondary grades or operate more than two hours beyond the customary school day, the program would not meet the criteria of this exemption.

DFPS Child Care Licensing is committed to assisting your programs in reviewing criteria for the exemption on Private Educational Facility, including an Educational Facility that is Religious in Nature. Please let me know if you have any questions or need additional information. Sasha Rasco, Assistant Commissioner for Child Care Licensing, serves as the lead staff on this matter and she can be reached at (512) 438-3269.

Sincerely,


Joyce James
Deputy Commissioner

JJ: lf

cc: Sasha Rasco, Child Care Licensing Assistant Commissioner