

April 19, 2018

TO THE ADMINISTRATOR ADDRESSED:

SUBJECT: SB 1566, Section 11 Guidance

SB 1566, Section 11 passed by the 85th Texas Legislature, Regular Session, 2017, added Section 33.9031, regarding the establishment of before-school and after-school programs in Texas school districts, to the Texas Education Code (TEC). TEC, §33.9031(c) requires that a school district conduct a request for proposals process (RFP process) involving child-care facilities that provide before-school and after-school programs in order to determine if the district's best interests will be met by contracting with such child-care facilities to offer the district's before-school and after-school programs.

It has come to the attention of the Texas Education Agency (TEA) that some school districts are limiting the term "child-care facility" in TEC, §33.9031(c) to licensed child-care facilities under Section 42.041(a) of the Texas Human Resources Code (HRC). In response, TEA points districts to HRC, §42.041(b)(7), which reads as follows:

(b) This section does not apply to:

(7) an educational facility that is accredited by the Texas Education Agency, the Southern Association of Colleges and Schools, or an accreditation body that is a member of the Texas Private School Accreditation Commission and that operates primarily for educational purposes for prekindergarten and above, a before-school or after-school program operated directly by an accredited educational facility, or a before-school or after-school program operated by another entity under contract with the educational facility, if the Texas Education Agency, the Southern Association of Colleges and Schools, or the other accreditation body, as applicable, has approved the curriculum content of the before-school or after-school program operated under the contract[.]

In light of HRC, §42.046(b)(7), TEA's position is that licensing-exempt child-care facilities described by HRC, §42.041(b)(7) should be included in the RFP process described by TEC, §33.9031(c).

If you have any questions regarding this matter, please contact TEA's Office of General Counsel at (512) 463-9720.