Minimum Standards for Child Placing Agencies

Child Care Regulation

TEXAS
Health and Human Services

Texas Health and Human Services Commission

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Introduction

Minimum Standards

These minimum standards tell you (the child care operation permit holder) what requirements you, your employees, and your caregivers must follow.

These minimum standards:

- were developed by the Texas Health and Human Services Commission (HHSC) with the assistance of child-care operations, parents, stakeholders, and other experts in a variety of fields;
- reflect what the citizens of Texas consider to be reasonable and minimum; and
- meet the guidelines set forth in Chapter 42 of the Texas Human Resources Code (law) for what must be included in the minimum standards.

The Administrative Procedure and Texas Register Act requires that proposed standards be published for public comment before they are adopted as rules. All members of the public, including providers, are encouraged to provide input when proposed minimum standards are published for comment. The commission considers recommendations from interested persons or groups in formulating the final draft, which is filed as rules with the Secretary of State.

Deficiencies

A deficiency is any failure to comply with a minimum standard, rule in Texas Administrative Code Chapter 745, law, specific term of the permit, or specific condition of probation or suspension.

Weights

The minimum standards are weighted based on a common understanding of the risk to children presented if the standard or rule is violated. The weights are: high, medium-high, medium, medium-low, and low. The assigned weights do not change based on the scope or severity of an actual deficiency. Scope and severity are assessed by Child Care Regulation (CCR) staff, documented, and considered in conjunction with the weight when making CCR decisions. You will see the *weight is noted at the end of each standard or subsection in green. Only those minimum standards which can be cited as a deficiency are weighted. For example, the minimum standard prohibiting physical discipline is weighted but minimum standards that are definitions are not weighted.*

Maintaining Compliance

It is essential that you, your employees, and your caregivers recognize four critical aspects of CCR's efforts to protect the children in care and to help operation employees and caregivers comply with the law, rules, and standards. The four aspects are:

- Inspection
- Technical assistance
- Investigations
- Caregiver's rights and entitlements

The Inspection

Various aspects of regulated operations are evaluated for compliance with the minimum standards, rules, and laws during regular inspections. The emphasis on these inspections is to prevent risk to children in care. The frequency of inspections will fluctuate depending on the type of permit and the operation's history of compliance with the minimum standards, rules, and law.

During any inspection, if we find that your operation does not meet minimum standard, rule, or law, the deficiencies are discussed with the person in charge at the time of the inspection. You will be given the opportunity to correct deficiencies within a specified period of time. If you have questions, concerns, or disagree with the citation, we encourage you to talk with us before we leave your operation. If your concerns are not resolved, you may request an administrative review.

Technical Assistance

We are available to offer consultation to potential applicants, applicants, and permit holders regarding how to comply with minimum standards, rules, and laws. While we most often provide technical assistance during inspections and investigations, technical assistance can be requested at any time.

The Child Care Regulation section of the HHSC web site has a Technical Assistance Library that allows you to view or download information about a variety of topics related to child care. You can view it by going to https://hhs.texas.gov/doing-business-hhs/provider-portals/protective-services-providers/child-care-licensing and selecting *Technical Assistance Library* from the Resources section.

A feature of the minimum standards publication are the Technical Assistance boxes that follow certain minimum standards to provide additional guidance, clarification, resources, and/or best practices related to the applicable rule.

Investigations

When a report alleges a violation of minimum standards, rule, or law, CCR staff must investigate the report, notify you of the investigation, and provide a written report to you of the investigation results within prescribed time frames.

Your Rights and Entitlements

Waivers and Variances

You may request a waiver If your operation is unable to comply with a standard for economic reasons. You may request a variance if your operation wishes to meet the intent of a standard in a way that is different from what the standard specifies. Waiver and variance requests are submitted through your online provider account or made in writing to your assigned CCR inspector.

Administrative Review

If you disagree with a CCR decision or action, you may request an administrative review, during which you are given an opportunity to show compliance with applicable minimum standard, rule, law, action, permit restriction(s) and/or permit conditions.

Appeal Hearing

You may request an appeal hearing on a CCR decision to deny an application, revoke, suspend, or refuse to renew a permit or a condition placed on the permit after initial issuance.

Appeal hearings are conducted by the State Office of Administrative Hearings (SOAH).

For Further Information

It is important that you, your employees, and your caregivers clearly understand the purpose of minimum standards and the reasons for CCR's inspections and investigations. Do not hesitate to ask us questions that will help you understand any aspect of our regulation. You may obtain information about minimum standards or procedures by calling your local CCR office or by visiting the HHSC web site at https://hhs.texas.gov/doing-business-hhs/provider-portals/protective-services-providers/child-care-licensing.

Subchapter A, Purpose and Scope

§749.1. What is the purpose of this chapter?

Subchapter A, Purpose and Scope

January 2007

The purpose of this chapter is to set forth the rules that apply to child-placing agencies.

§749.3. Who is responsible for complying with the rules of this chapter?

Subchapter A, Purpose and Scope

January 2007

The permit holder must ensure compliance with all rules of this chapter at all times, with the exception of those rules identified for specific types of services that your agency does not offer. For example, if we grant you a permit to offer adoption services only, you do not have to comply with rules that apply to foster care services; however, you must comply with all other rules of this chapter [High].

Subchapter B, Definitions and Services

Division 1, Definitions

§749.41. What do certain pronouns mean in this chapter?

Subchapter B, Definitions and Services

Division 1, Definitions

October 2018

The following words have the following meanings in this chapter:

(1) I, my, you, and your − An applicant or permit holder, unless otherwise stated.

(2) We, us, our, and Licensing − The Child Care Licensing Department of the Health and Human Services Commission (HHSC).

§749.43. What do certain words and terms mean in this chapter?

Subchapter B, Definitions and Services

Division 1, Definitions

December 2022

The words and terms used in this chapter have the meanings assigned to them under §745.21 of this title (relating to What do the following words and terms mean when used in this chapter?), unless another meaning is assigned in this section or unless the context clearly indicates otherwise. The following words and terms have the following meanings unless the context clearly indicates otherwise:

(1) Accredited college or university − An institution of higher education accredited by one of the following regional accrediting entities:

(A) The Southern Association of Colleges and Schools Commission on Colleges, a subdivision of the Southern Association of Colleges and Schools;

(B) The Middle States Commission on Higher Education, a component of the Middle States Association of Colleges and Schools;

(C) The Commission on Institutions of Higher Education, a subdivision of the New England Association of Schools and Colleges;

(D) The Higher Learning Commission (formerly part of the North Central Association of Colleges and Schools);

(E) The Northwest Commission on Colleges and Universities;

(F) The Accrediting Commission for Senior Colleges and Universities, a subdivision of the Western Association of Schools and Colleges; or

(G) The Accrediting Commission for Community and Junior Colleges, a subdivision of the Western Association of Schools and Colleges.

(2) Adaptive functioning − Refers to how effectively a person copes with common life demands and how well the person meets standards of personal independence expected of someone in his particular age group, socio-cultural background, and community setting.

(3) Adoption record − All information received by the child-placing agency that bears the child's name or pertains to the child, including any information about the birth parents and adoptive parents, is considered to be part of the adoption record.

(4) Adoptive home screening − Also known as a pre-adoptive home screening. A written evaluation, prior to the placement of a child in an adoptive home, of the:

(A) Prospective adoptive parents;

(B) Family of the prospective adoptive parents; and

(C) Environment of the adoptive parents and their family in relation to their ability to meet the needs of a child, and if a child has been identified for adoption, the needs of that particular child.

(5) Adult − A person 18 years old or older.

(6) Adverse action − See corrective or adverse action.

(7) Babysitter − A person who temporarily cares for a child in foster care for no more than 12 consecutive hours. A babysitter is not required to meet the requirements for a caregiver unless the babysitter is a verified foster parent, an agency employee, a contract service provider, or a volunteer.

(8) Babysitting − Care provided by a babysitter.

(9) Caregiver − A caregiver:

(A) Is a person counted in the child/caregiver ratio for foster care services, including employees, foster parents, contract service providers, and volunteers, whose duties include direct care, supervision, guidance, and protection of a child in care. This includes any person who is solely responsible for a child in foster care. For example, a child-placement staff that takes a foster child on an appointment or doctor's visit is considered a caregiver;

(B) Does not include a babysitter, an overnight care provider, or a respite child-care provider unless the person is:

(i) A verified foster parent;

(ii) An agency employee;

(iii) A contract service provider; or

(iv) A volunteer.

(C) Does not include a contract service provider who:

(i) Provides a specific type of service to your agency for a limited number of hours per week or month;

(ii) Works with one particular child; or

(iii) Is a nurse being reimbursed by Medicaid;

(D) Does not include a person left alone momentarily with a child in care while the caregiver leaves the room; and

(E) Does not include an adoptive parent.

(10) Certified fire inspector − Person certified by the Texas Commission on Fire Protection to conduct fire inspections.

(11) Chemical restraint − A prohibited type of emergency behavior intervention that uses chemicals or pharmaceuticals through topical application, oral administration, injection, or other means to immobilize or sedate a child as a mechanism of control. The use of a medication is not a chemical restraint under this chapter if the medication:

(A) Is prescribed by a treating health-care professional;

(B) Is administered solely for medical or dental reasons; and

(C)Has a secondary effect of immobilizing or sedating a child.

Technical Assistance
A "secondary effect" describes a prescribed medication's side effect that is unintended and is not the reason for the medication being prescribed.

(12) Child in care--A child who has been placed by a child-placing agency in a foster or adoptive home, regardless of whether the child is temporarily away from the home. Unless a child has been discharged from the child-placing agency, the child is considered a child in care.

(13) Child/caregiver ratio – The maximum number of children for whom one caregiver can be responsible.

(14) Childhood activities – Activities that are generally accepted as suitable for children of the same chronological age, level of maturity, and developmental level as determined by a reasonable and prudent parent standard as specified in §749.2605 of this chapter (relating to What is the "reasonable and prudent parent standard"?). Examples of childhood activities include extracurricular activities, in-school and out-of-school activities, enrichment activities, cultural activities, and employment opportunities. Childhood activities include unsupervised childhood activities.

(15) Contract service provider – A person or entity that is contracting with the operation to provide a service, whether paid or unpaid. Also referred to as "contract staff" and "contractor" in this chapter.

(16) Corporation or other type of business entity – May include an association, corporation, nonprofit association, nonprofit corporation, nonprofit association with religious affiliation, nonprofit corporation with religious affiliation, limited liability company, political subdivision, or state agency. For purposes of this chapter, this definition does not include any type of "partnership," which is defined separately.

(17) Corrective or adverse action--Is any action by you that places a restriction or condition on a foster home's verification, including the revocation of the verification. Note: For information regarding a corrective or adverse action which Licensing is taking against you, see Subchapter L of Chapter 745 (relating to Enforcement Actions).

(18) Counseling – A procedure used by professionals from various disciplines in guiding individuals, families, groups, and communities by such activities as delineating alternatives, helping to articulate goals, processing feelings and options, and providing needed information. This definition does not include career counseling.

(19) Days – Calendar days, unless otherwise stated.

(20) De-escalation − Strategies used to defuse a volatile situation, to assist a child to regain behavioral control, and to avoid a physical restraint or other behavioral intervention.

(21) Department − The Texas Department of Family and Protective Services (DFPS).

(22) Discipline − A form of guidance that is constructive or educational in nature and appropriate to the child's age, development, situation, and severity of the behavior.

(23) Emergency Behavior Intervention (EBI) − Interventions used in an emergency situation, including personal restraints, mechanical restraints, emergency medication, and seclusion.

(24) Emergency medication − A type of emergency behavior intervention that uses chemicals or pharmaceuticals through topical application, oral administration, injection, or other means to modify a child's behavior. The use of a medication is not an emergency medication under this chapter if the medication:

(A) Is prescribed by a treating health-care professional;

(B) Is administered solely for a medical or dental reason (e.g. Benadryl for an allergic reaction or medication to control seizures); and

(C) Has a secondary effect of modifying a child's behavior.

Technical Assistance
The distinguishing variable between a PRN (as needed) psychotropic medication and an emergency medication is the circumstances under which the medication is given. A medication given to help a child manage his/her behavior or to de-escalate a child who is having trouble managing his/her behavior is regulated only as a PRN psychotropic medication. However, if the medication is given in response to an emergency situation, it is an emergency medication.

(25) Emergency situation − A situation in which attempted preventative de-escalatory or redirection techniques have not effectively reduced the potential for injury, so that intervention is immediately necessary to prevent:

(D) Imminent probable death or substantial physical injury to the child because the child attempts or continually threatens to commit suicide or substantial physical injury; or

(E) Imminent physical harm to another because of the child's overt acts, including attempting to harm others. These situations may include aggressive acts by the child, including serious incidents of shoving or grabbing others over their objections. These situations do not include verbal threats or verbal attacks.

(26) Employee − A person an operation employs full-time or part-time to work for wages, salary, or other compensation. For the purposes of this chapter, employees include all child-placing agency staff and any owner who is present at the operation or a foster home or transports any child in care.

(27) Family members − An individual related to another individual within the third degree of consanguinity or affinity. For the definitions of consanguinity and affinity, see Chapter 745 of this title (relating to Licensing). The degree of the relationship is computed as described in Government Code, §573.023 (relating to Computation of Degree of Consanguinity) and §573.025 (relating to Computation of Degree of Affinity).

Technical Assistance:

Relationship of Consanguinity and Affinity

Person Related within 1st Degree	Person Related within 2nd Degree	Person Related within 3rd Degree
• Parent; • Child; • Spouse; • Mother-In-Law and Father-In-Law; and • Daughter-In-Law and Son-In-Law. **Step and half relationships (step-brother, step-father, half- sister, etc.) are considered to be the same as blood relationships.*	• Grandparent; • Grandparent-In-Law; • Grandchild; • Grandchild-In-Law; • Sister or Brother; and • Sister/Brother-In- Law.	• Great-Grandparent; • Great-Grandparent- In-Law; • Great-Grandchild; • Great-Grandchild-In-Law; • Niece/Nephew; • Niece/Nephew-In- Law; • Aunt/Uncle; and • Aunt/Uncle-In-Law.

(28) Foster care − Care that is provided to a foster child by a foster family home.

(29) Foster family home − A home that is the primary residence of the foster parent(s) and provides care for six or fewer children or young adults, under the regulation of a child-placing agency. Also referred to as a "foster home" in this chapter.

(30) Foster home screening − A written evaluation, prior to the verification of the foster home, of the:

(A) Prospective foster parent(s);

(B) Family of the prospective foster parent(s);

(C) All other part- or full-time household members; and

(D) Environment of the foster parent(s) and their family in relation to their ability to meet the child's needs.

(31) Foster parent − A person verified to provide child care services in the foster home.

(32) Full-time − At least 30 hours per week.

(33) Governing body − A group of persons or officers of the corporation or other type of business entity having ultimate authority and responsibility for the child-placing agency.

(34) Grounds--Includes any parcel of land where the foster home is located and any building, other structure, body of water, play equipment, street, sidewalk, walkway, driveway, parking garage, or parking lot on the parcel. Also referred to as "premises" in this chapter.

Technical Assistance
If the foster home has common areas of the property that are shared by other tenants (such as a parking lot, courtyard, swimming pool area, etc.), the foster home is not responsible for how common areas are maintained. However, the foster home is responsible for the safety of the children and the continuing supervision of the children.

(35) Health-care professional − A licensed physician, licensed advanced practice registered nurse (APRN), physician's assistant, licensed vocational nurse (LVN), licensed registered nurse (RN), or other licensed medical personnel providing health care to the child within the scope of the person's license. This does not include physicians, nurses, or other medical personnel not licensed to practice in the United States or in the country in which the person practices.

(36) High-risk behavior − Behavior of a child that creates an immediate safety risk to the child or others. Examples of high-risk behavior include suicide attempt, self-abuse, physical aggression causing bodily injury, chronic running away, substance abuse, fire setting, and sexual aggression or perpetration.

(37) Human services field − A field of study that contains coursework in the social sciences of psychology and social work including some counseling classes focusing on normal and abnormal human development and interpersonal relationship skills from an accredited college or university. Coursework in guidance counseling does not apply.

(38) Immediate danger to self or others − A situation where a prudent person would conclude that bodily harm would occur if there were no immediate interventions. Immediate danger includes a serious risk of suicide, serious physical injury to self or others, or the probability of bodily harm resulting from a child running away. Immediate danger does not include:

(A) Harm that might occur over time or at a later time; or

(B) Verbal threats or verbal attacks.

(39) Infant − A child from birth through 17 months.

(40) Master record − The compilation of all required records for a specific person or home, such as a master personnel record, master case record for a child, or a master case record for a foster or adoptive home.

(41) Mechanical restraint − A prohibited type of emergency behavior intervention that uses the application of a device to restrict the free movement of all or part of a child's body in order to control physical activity.

(42) Mental health professional − Refers to:

(A) A psychiatrist licensed by the Texas Medical Board;

(B) A psychologist licensed by the Texas State Board of Examiners of Psychologists;

(C) A master's level social worker or higher licensed by the Texas State Board of Social Work Examiners;

(D) A professional counselor licensed by the Texas State Board of Examiners of Professional Counselors;

(E) A marriage and family therapist licensed by the Texas State Board of Examiners of Marriage and Family Therapists; and

(F) A master's level or higher nurse licensed as an Advanced Practice Registered Nurse by the Texas Board of Nursing and board certified in Psychiatric/Mental Health.

(43) Non-ambulatory − A child that is only able to move from place to place with assistance, such as a walker, crutches, a wheelchair, or prosthetic leg.

(44) Non-mobile − A child that is not able to move from place to place, even with assistance.

(45) Normalcy − See §749.2601 of this chapter (relating to What is "normalcy"?).

(46) Overnight care − Care provided by an overnight care provider.

(47) Overnight care provider − A person who temporarily cares for a child in foster care for more than 12 consecutive hours, but no more than 72 consecutive hours.

(48) Owner − The sole proprietor, partnership, or corporation or other type of business entity who owns a child-placing agency.

(49) Parent -- A person or entity that has legal responsibility for or legal custody of a child, including the managing conservator or legal guardian of the child or a legally authorized representative of an entity with that status.

(50) Partnership − A partnership may be a general partnership, (general) limited liability partnership, limited partnership, or limited partnership as limited liability partnership.

(51) Permit holder − The owner of the child-placing agency that is granted the permit.

(52) Person legally authorized to give consent − The person legally authorized to give consent by the Texas Family Code or a person authorized by the court.

(53) Personal restraint − A type of emergency behavior intervention that uses the application of physical force without the use of any device to restrict the free movement of all or part of a child's body in order to control physical activity. Personal restraint includes escorting, which is when a caregiver uses physical force to move or direct a child who physically resists moving with the caregiver to another location.

(54) Physical force − Pressure applied to a child's body that reduces or eliminates the child's ability to move freely.

(55) Post-adoption services − Services available through the child-placing agency (direct or on referral) to birth and adoptive parents and the adoptive child after the adoption is consummated. Examples include counseling, maintaining a registry if a central registry is not used, providing pertinent, new medical information to birth or adoptive parents, or providing the adult adoptee a copy of his record upon request.

(56) Post-placement adoptive report − A written evaluation of the assessments and interviews, after the adoptive placement of the child, regarding the:

(A) Child;

(B) Prospective adoptive parent(s);

(C) Family of the prospective adoptive parent(s);

(D) Environment of the prospective adoptive parents and their family; and

(E) Adjustment of all individuals to the placement.

(57) Pre-adoptive home screening – See adoptive home screening.

(58) Premises--See the term "grounds" and its definition in this section.

(59) PRN – A standing order or prescription that applies "pro re nata" or "as needed according to circumstances."

(60) Professional service provider – Refers to:

(A) A child placement management staff or person qualified to assist in child placing activity;

(B) A psychiatrist licensed by the Texas State Board of Medical Examiners;

(C) A psychologist licensed by the Texas State Board of Examiners of Psychologists;

(D) A master's level social worker or higher licensed by the Texas State Board of Social Work Examiners;

(E) A professional counselor licensed by the Texas State Board of Examiners of Professional Counselors;

(F) A marriage and family therapist licensed by the Texas State Board of Examiners of Marriage and Family Therapists;

(G) A master's level or higher nurse licensed as an Advanced Practice Registered Nurse by the Texas Board of Nursing and board certified in Psychiatric/Mental Health; and

(H) Other professional employees in fields such as drug counseling, nursing, special education, vocational counseling, pastoral counseling, and education who may be included in the professional staffing plan for your agency that provides treatment services if the professional's responsibilities are appropriate to the scope of the agency's program description. These professionals must have the minimum qualifications generally recognized in the professional's area of specialization.

(61) Prone restraint – A restraint in which the child is placed in a chest-down hold.

(62) Psychosocial assessment – An evaluation by a mental health professional of a child's mental health that includes a:

(A) Clinical interview of the child;

(B) Diagnosis from the Diagnostic and Statistical Manual of Mental Disorders 5 (DSM-5), or statement that rules out a DSM-5 diagnosis;

(C) Treatment plan for the child, including whether further evaluation of the child is needed (for example: is a psychiatric evaluation needed to determine if the child would benefit from psychotropic medication or hospitalization; or is a psychological evaluation with psychometric testing needed to determine if the child has a learning disability or an intellectual disability); and

(D) Written summary of the assessment.

(63) Re-evaluate − Re-assessing all factors required for the initial evaluation for the purpose of determining if any substantive changes have occurred. If substantive changes have occurred, these areas must be fully evaluated.

(64) Regularly − On a recurring, scheduled basis. Note: For the definition for "regularly or frequently present at an operation" as it applies to background checks, see §745.601 of this title (relating to What words must I know to understand this subchapter?).

(65) Residential child-care operation − A licensed or certified operation that provides residential child care. Also referred to as a "residential child-care facility."

(66) Sanitize − The use of a product (usually a disinfecting solution) registered by the Environmental Protection Agency (EPA) that substantially reduces germs on inanimate objects to levels considered safe by public health requirements. Many bleach and hydrogen peroxide products are EPA-registered. You must follow the product's labelling instructions for sanitizing (paying particular attention to any instructions regarding contact time and toxicity on surfaces likely to be mouthed by children, such as toys and crib rails). For an EPA-registered sanitizing product or disinfecting solution that does not include labelling instructions for sanitizing (a bleach product, for example), you must conduct these steps in the following order:

(A) Washing with water and soap;

(B) Rinsing with clear water;

(C) Soaking in or spraying on a disinfecting solution for at least two minutes. Rinsing with cool water only those items that a child is likely to place in his mouth; and

(D) Allowing the surface or item to air-dry.

(67) School-age child − A child who is five years old or older and is enrolled in or has completed kindergarten.

(68) Seat belt − A lap belt and any shoulder strap included as original equipment on or added to a motor vehicle.

(69) Seclusion − A type of emergency behavior intervention that involves the involuntary separation of a child from other children and the placement of the child alone in an area from which the child is prevented from leaving. Examples of such an area include where the child is prevented from leaving by a physical barrier, force, or threat of force.

(70) Service plan − A plan that identifies a child's basic and specific needs and how those needs will be met.

(71) Short personal restraint − A personal restraint that does not last longer than one minute before the child is released.

(72) Single source continuum contractor − A child-placing agency that contracts with the Texas Department of Family and Protective Services to provide community-based care as described in Subchapter B-1, Chapter 264, Texas Family Code.

(73) State or local fire authority − A fire official who is authorized to conduct fire safety inspections on behalf of the city, county, or state government, including certified fire inspectors.

(74) Substantial physical injury − Physical injury serious enough that a reasonable person would conclude that the injury needs treatment by a medical professional, including dislocated, fractured, or broken bones; concussions; lacerations requiring stitches; second and third degree burns; and damages to internal organs. Evidence that physical injury is serious may include the location or severity of the bodily harm or the age of the child. Substantial physical injury does not include minor bruising, the risk of minor bruising, or similar forms of minor bodily harm that will resolve healthily without professional medical attention.

(75) Supine restraint − Placing a child in a chest up restraint hold.

(76) Supplements − Includes vitamins, herbs, and any supplement labeled dietary supplement.

(77) Swimming activities − Activities related to the use of swimming pools, wading/splashing pools, hot tubs, or other bodies of water.

(78) Toddler − A child from 18 months through 35 months old.

(79) Trafficking victim − A child who has been recruited, harbored, transported, provided or obtained for the purpose of forced labor or commercial sexual activity, including any child subjected to an act or practice as specified in Penal Code §20A.02 or §20A.03.

(80) Trauma informed care (TIC) − Care for children that is child-centered and considers the unique culture, experiences, and beliefs of the child. TIC takes into consideration:

(A) The impact that traumatic experiences have on the lives of children;

(B) The symptoms of childhood trauma;

(C) An understanding of a child's personal trauma history;

(D) The recognition of a child's trauma triggers; and

(E) Methods of responding that improve a child's ability to trust, to feel safe, and to adapt to changes in the child's environment.

(81) Treatment director – The person responsible for the overall treatment program providing treatment services. A treatment director may have other responsibilities and may designate treatment director responsibilities to other qualified persons.

(82) Unsupervised childhood activities – Childhood activities that a child in care participates in away from the foster home and the foster parents. Childhood activities that the foster parents conduct or supervise or the child-placing agency sponsors are not unsupervised childhood activities. Unsupervised childhood activities may include playing sports, going on field trips, spending the night with a friend, going to the mall, or dating. Unsupervised childhood activities may last one or more days.

(83) Volunteer – A person who provides:

(A) Child-care services, treatment services, or programmatic services under the auspices of the agency without monetary compensation; or

(B) Any type of services under the auspices of the agency without monetary compensation when the person has unsupervised access to a child in care.

(84) Young adult – An adult whose chronological age is between 18 and 22 years, who is currently in a residential child-care operation, and who continues to need child-care services.

Division 2, Services

§749.61. What types of services does Licensing regulate?

Subchapter B, Definitions and Services

Division 2, Services

January 2017

We regulate the following types of services:

(1) Child-Care Services – Services that meet a child's basic need for shelter, nutrition, clothing, nurture, socialization and interpersonal skills, care for personal health and hygiene, supervision, education, and service planning;

(2) Treatment Services – In addition to child-care services, a specialized type of child-care services designed to treat and/or support children:

(A) With Emotional Disorders who have a current DSM-5 diagnosis, such as mood disorders, psychotic disorders, or dissociative disorders, and demonstrate two or more of the following:

(i) Major self-injurious actions, including a suicide attempt within the last 12 months;

(ii) Difficulties that present a significant risk of harm to others, including frequent or unpredictable physical aggression; or

(iii) An additional DSM-5 diagnosis of substance-related and/or addictive disorder with severe impairment;

Technical Assistance
Regarding subsection (2)(A), neither attending counseling nor taking a psychotropic medication factors into a child being eligible for treatment services for an emotional disorder. Only the indicators noted above are considered when determining eligibility for treatment services. However, you may offer treatment services to a child you assess as needing those services, regardless of the indicators above.

(B) With a DSM-5 diagnosis of Intellectual Disability that is characterized by prominent, severe deficits and pervasive impairment in one or more of the following areas:

(i) Conceptual, social, and practical adaptive skills to include daily living and self care;

(ii) Communication, cognition, or expressions of affect;

(iii) Self-care activities or participation in social activities;

(iv) Responding appropriately to an emergency; or

(v) Multiple physical disabilities, including sensory impairments;

Technical Assistance
Regarding subsection (2)(B), a DSM-5 diagnoses of Intellectual Disability also requires a severity level (mild, moderate, severe, or profound). If a severity level is provided, the severity information may be helpful in determining whether the child is characterized by prominent, severe deficits and pervasive impairment.

(C) With a DSM-5 diagnosis of Autism Spectrum Disorder that is characterized by prominent, severe deficits and pervasive impairment in one or more of the following areas of development:

(i) Conceptual, social, and practical adaptive skills to include daily living and self care;

(ii) Communication, cognition, or expressions of affect;

(iii) Self-care activities or participation in social activities;

(iv) Responding appropriately to an emergency; or

(v) Multiple physical disabilities including sensory impairments;

Technical Assistance
Regarding subsection (2)(C), the Autism Spectrum Disorder includes previous DSM-IV diagnoses of autistic disorder, Asperger's disorder, pervasive development disorder-not otherwise specified, and similar disorders associated with a known medical or genetic disorder (e.g. Rett's Disorder). This newly titled disorder is a single continuum of mild to severe (Levels 1 - 3) impairments in the two domains of social communication and restrictive repetitive behaviors/interests. A DSM-5 diagnosis does not mandate a severity level; however, if a severity level is provided, then the severity information may be helpful in determining whether the child is characterized by prominent, severe deficits and pervasive impairment.

(D) With Primary Medical Needs, who cannot live without mechanical supports or the services of others because of life-threatening conditions, including:

(i) The inability to maintain an open airway without assistance. This does not include the use of inhalers for asthma;

(ii) The inability to be fed except through a feeding tube, gastric tube, or a parenteral route;

(iii) The use of sterile techniques or specialized procedures to promote healing, prevent infection, prevent cross-infection or contamination, or prevent tissue breakdown; or

(iv) Multiple physical disabilities including sensory impairments; and

(E) Determined to be a trafficking victim, including a child:

(i) Determined to be a trafficking victim as the result of a criminal prosecution or who is currently alleged to be a trafficking victim in a pending criminal investigation or prosecution;

(ii) Identified by the parent or agency that placed the child with the child-placing agency as a trafficking victim; or

(iii) Determined by the child-placing agency to be a trafficking victim based on reasonably reliable criteria, including one or more of the following:

(I) The child's own disclosure as a trafficking victim;

(II) The assessment of a counselor or other professional; or

(III) Evidence that the child was recruited, harbored, transported, provided to another person, or obtained for the purpose of forced labor or commercial sexual activity; and

(3) Additional Programmatic Services, which include:

(A) Transitional Living Program − A residential services program designed to serve children 14 years old or older for whom the service or treatment goal is basic life skills development toward independent living. A transitional living program includes basic life skills training and the opportunity for children to practice those skills. A transitional living program is not an independent living program;

(B) Assessment Services Program − Services to provide an initial evaluation of the appropriate placement for a child to ensure that appropriate information is obtained in order to facilitate service planning; and

(C) Respite Child-Care Services − See §749.2621 of this title (relating to What are respite child-care services?).

§749.63. Can I provide each type of service that Licensing regulates?

Subchapter B, Definitions and Services

Division 2, Services

January 2007

You may provide each type of service that we regulate under the following conditions:

(1) On your permit, we list the type of service that you have been approved to provide [Medium]; and

(2) Your operational policies and procedures ensure:

(A) Children are admitted appropriately [Medium-High];

(B) The needs of all children in care are met [Medium-High];

(C) Children are appropriately supervised [High];

(D) Children are protected from one another, if appropriate [Medium-High]; and

(E) You meet the applicable rules of this chapter [Medium-High].

§749.65. What children are eligible to participate in a transitional living program?

Subchapter B, Definitions and Services

Division 2, Services

January 2007

(a) For a child to be eligible to participate in a transitional living program, the child must be 14 years old or older [Medium-Low].

(b) For a child to be eligible to receive the level of caregiver supervision described in§749.2597 of this title (relating to Where must the caregivers reside in order to supervise children who are in a transitional living program?), the child must be 16 years old or older [Medium].

§749.67. What are the requirements for a transitional living program?

Subchapter B, Definitions and Services

Division 2, Services

January 2007

A transitional living program must have a training program for children that demonstrates competency in the following areas [Medium-Low]:

(1) Health, general safety, and fire safety practices [Medium];

(2) Money management [Low];

(3) Transportation skills [Low];

(4) Accessing community and other resources [Low]; and

(5) Child health and safety, child development, and parenting skills, if the child is a parent of a child living with him [Medium].

§749.69. What is an "independent living program"?

Subchapter B, Definitions and Services

Division 2, Services

January 2007

An "independent living program" is a program that provides case management services to a child who lives independently, without supervision and child/caregiver ratio, and the constant presence of an on-site caregiver.

§749.71. May I have an independent living program?

Subchapter B, Definitions and Services

Division 2, Services

January 2007

Your agency may not provide an independent living program for a child in care under 18 years old [Medium-Low].

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

§749.101. What plans must I submit for Licensing's approval as part of the application process?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

As part of the application process, you must submit the following plans to us for approval:

(1) An operation plan that must include [Low]:

(A) The location and telephone numbers of all of your offices, including branch offices [Low];

(B) Your hours of operation at your main office and any branch offices [Low]; and

(C) A list of persons or officers and their titles who comprise the governing body, if applicable [Low];

(2) A fiscal plan that includes [Medium-Low]:

(A) A detailed estimate of the operating costs of the agency for the first three months [Medium-Low];

(B) Documentation of reserve funds or available credit at least equal to operating costs for the first three months [Medium];

(C) An estimated 12-month budget of income and expenses [Medium-Low]; and

(D) Predictable funds sufficient for the first year of operation [Medium];

(3) A plan to evaluate the effectiveness of your system for meeting the rules of this chapter, including evaluating the accuracy of foster home screenings and the comprehensiveness of the supervisory visits. This plan must describe how your evaluation process will [Medium]:

(A) Identify problems, including deficiencies [Medium];

(B) Correct the problems identified [Medium]; and

(C) Document the problems identified and when and how the problems were corrected [Medium]; and

(4) A plan to ensure that you will [Medium]:

(A) Investigate reports of minimum standards violations, upon our request [Medium-High]; and

(B) Submit reports of your agency's investigative actions and finding to us within 30 days for our review, follow-up, and closure [Medium].

§749.103. What policies and procedures must I submit for Licensing's approval as part of the application process?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

September 2022

(a) You must develop the policies and procedures identified in subsection (b) of this section. Your policies and procedures must comply with or exceed the minimum standards specified in this chapter, Chapter 42 of the Human Resources Code, and Chapter 745 of this title (relating to Licensing), and any other applicable law [Medium].

(b) As part of the application process, you must submit the following policies and procedures to us for our approval:

(1) Policies and procedures related to record keeping, including where the records will be located. The policies must be consistent with Subchapter D of this chapter (relating to Reports and Records Keeping) [Medium];

(2) Personnel policies and procedures consistent with §749.105 of this title (relating to What are the requirements for my personnel policies and procedures?) [Medium];

(3) Conflict of interest policies consistent with §749.107 of this title (relating to What must my conflict of interest policies include?) [Medium];

(4) Admission policies consistent with §749.109 of this title (relating to What must my admission policies include?) [Medium];

(5) Placement policies consistent with §749.111 of this title (relating to What must my placement policies include?) [Medium];

(6) Child-care policies consistent with §749.113 of this title (relating to What child-care policies must I develop?) [Medium];

(7) Emergency behavior intervention policies consistent with §749.115 of this title (relating to What emergency behavior intervention policies must I develop if my foster homes are permitted to use emergency behavior intervention?) [Medium-High];

(8) Discipline policies consistent with §749.117 of this title (relating to What are the requirements for my discipline policies for children in care?) [Medium];

(9) Foster care policies consistent with §749.119 of this title (relating to What foster care policies must I develop?) [Medium];

(10) Rights and responsibilities of the child-placing agency and the foster parents consistent with §749.121 of this title (relating to What policies must I develop concerning the rights and responsibilities of the child-placing agency and foster parents?) [Medium-Low];

(11) Additional policies for foster parents that provide treatment services consistent with §749.123 of this title (relating to What policies must I develop regarding foster parents who provide treatment services to a child with primary medical needs?) [Medium];

(12) Additional policies for foster parents who offer a transitional living program consistent with §749.125 of this title (relating to What policies must I develop for foster parents who offer a transitional living program?) [Medium-Low];

(13) Policies for babysitters, overnight care providers, and respite care providers consistent with §749.127 of this title (relating to What policies must I develop for babysitters, overnight care providers, and respite care providers?) [Medium-Low];

(14) Policies for a legal risk placement program consistent with §749.129 of this title (relating to What policies must I develop for a legal risk placement program for foster- adoptive families?) [Medium-Low];

(15) Adoption policies, if applicable, consistent with §749.131 of this title (relating to What policies must I develop if I offer adoption services?) [Medium-Low];

(16) Volunteer policies consistent with §749.133 of this title (relating to What policies must I develop if I use volunteers?) [Medium-Low];

(17) Abuse and neglect policies consistent with §749.135 of this title (relating to What abuse and neglect policies must I develop?) [Medium-High];

(18) An appeal process for adult clients consistent with Division 8 of this subchapter [Low];

(19) A weapons, firearms, explosive materials, and projectiles policy, for foster care services, consistent with Division 3 of Subchapter O (relating to Weapons, Firearms, Explosive Materials, and Projectiles) [High];

(20) A tobacco and e-cigarette policy consistent with §749.2931 of this title (relating to What policies must I enforce regarding tobacco products and e-cigarettes?) [Medium-High]; and

(21) A suicide prevention, intervention, and postvention policy consistent with §749.136 of this division (relating to What suicide prevention, intervention, and postvention policy must I have?). [Medium-High]

§749.105. What are the requirements for my personnel policies and procedures?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

April 2022

Your personnel policies and procedure must [Medium]:

(1) Include an organizational chart showing the administrative, professional, and staffing structures and lines of authority [Medium];

(2) Include written job descriptions, including minimum qualifications and job responsibilities for each position [Medium];

(3) Include a written professional staffing plan that [Medium]:

(A) Demonstrates that the number, qualifications, and responsibilities of professional positions, including the child-placing agency administrator, are appropriate for the size and scope of your services and that workloads are reasonable enough to meet the needs of the children in care [Medium];

(B) Describes in detail the qualifications, duties, responsibilities, and authority of professional positions. For each position, the plan must show whether employment is on a full-time, part-time, or continuing consultative basis. For part-time and consulting positions, the plan must specify the number of hours and frequency of services, if applicable [Medium]; and

(C) Describes how staff or service providers support clients served through branch offices [Medium];

(4) Include written training requirements for employees and caregivers [Medium];

(5) Comply with background check requirements outlined in Subchapter F of Chapter 745 of this title (relating to Background Checks) [High];

(6) Require your employees to report serious incidents and suspected abuse, neglect, or exploitation. An employee who suspects abuse, neglect, or exploitation must report the employee's suspicion directly to the Texas Abuse and Neglect Hotline, as directed by Texas Family Code §261.101(b). An employee may not delegate the responsibility to make a report, and you may not require an employee to seek approval to file a report or to notify you that a report was made [High];

(7) Require that all employees and consulting, contracting, and volunteer professionals who work with a child and others with access to information about a child be informed in writing of their responsibility to maintain child confidentiality [Medium]; and

(8) Either adopt the model drug testing policy or have a written drug testing policy that meets or exceeds the criteria in the model policy provided in §745.4151 of this title (relating to What drug testing policy must my residential child-care operation have?) [Medium-High].

Technical Assistance
Regarding subsection (6), if it is known by others in the chain of command that someone already reported a particular suspicion of abuse, neglect, or exploitation then those persons are not required to make reports on that particular suspicion as well.

§749.107. What must my conflict of interest policies include?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

Your conflict of interest policies must include [Medium]:

(1) A statement that child placement staff and child placement management staff will not conduct, review, or approve foster home screenings, adoptive home screenings, or post-placement adoptive reports if there is a conflict of interest or bias with the family or the child. For example, there would be a conflict of interest if the staff is related to or has a personal relationship with the family or the child [Medium];

(2) A statement that it is a conflict of interest for your agency to verify as a foster parent or approve as an adoptive parent any of the following persons or relatives of any of the following persons: any current owner, member of the governing body, executive director, or any other employee or contract service provider of your agency [Medium];

(3) A code of conduct on the relationship between your agency's owners (including members of the governing body, if applicable), employees, contract service providers, children in placement, children's families, and prospective and current foster and adoptive parents, including required parameters for entering into independent financial relationships or transactions [Medium];

(4) For corporations or other types of business entities, a statement that the majority of the voting members of the governing body must consist of persons who do not have a conflict of interest that would potentially interfere with objective decision making. Persons who have such a conflict of interest include the following [Medium]:

(A) Family members of:

(i) An officer of the governing body;

(ii) The administrator or executive director of the child-placing agency; or

(iii) Any person with a controlling interest in the entity's stock; or

(B) If the governing body is a non-profit entity, persons who benefit financially from the agency, including but not limited to persons employed by or working at the agency, paid consultants, subcontractors, or vendors; and

(5) For adoptions, you may state whether the person whom you evaluated appears to be suitable for adoption, even if there are other individuals requesting adoption. If you have not evaluated parties of a disputed case, you must refrain from making an adoption or custody recommendation, unless otherwise directed by the court [Medium].

§749.109. What must my admission policies include?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

Your admission policies must include a description of each program you offer, including [Medium]:

(1) The program's goals and services provided, including whether the program accepts emergency admissions [Medium]; and

(2) The characteristics of the population the program serves, such as gender, age range, behaviors, and diagnoses. If the program includes treatment services, your policy must describe the type of treatment services the program is designed to treat, including emotional disorders, intellectual disability, autism spectrum disorder, primary medical needs, or trafficking victim services [Medium].

§749.111. What must my placement policies include?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

Your placement policy must include a description of how you will [Medium]:

(1) Ensure that your agency will not place a child before determining that foster care and/or adoption is appropriate for the child [Medium-Low];

(2) Match a child with a foster and/or adoptive home to ensure that the child's needs are met [Medium-Low];

(3) Make every effort to place siblings together and document in each child's record when it is necessary to separate siblings [Medium]; and

(4) Ensure contact between siblings is maintained when siblings are not placed together or document why contact is not appropriate for one or more of the siblings [Medium].

§749.113. What child-care policies must I develop?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

You must develop policies that describe [Medium]:

(1) Visitation rights between the child and family members and the child and friends [Medium];

(2) The child's right to correspond by mail with family members and friends, including any policies regarding mail restrictions and receipt of electronic messages and mail [Medium];

(3) The child's right to correspond by telephone with family members and friends [Medium-Low];

(4) The child's right to receive and give gifts to family, friends, staff or caregivers, or other children in care, including any restrictions on gifts [Medium-Low];

(5) How a child obtains clothing [Medium-Low];

(6) Personal possessions a child is or is not allowed to have, where the possessions may be stored, and search policies [Medium-Low];

(7) Emergency behavior intervention techniques if the use of emergency behavior intervention is permitted in your agency. The policy must be consistent with §749.115(5) of this title (relating to What emergency behavior intervention policies must I develop if my foster homes are permitted to use emergency behavior intervention?) [Medium-High];

(8) Any religious program or activity that you offer, including whether children must participate in the program or activity, and if so, with or without caregivers [Medium-Low];

(9) The plans for meeting the educational needs of each child [Medium-Low];

(10) When trips with caregivers away from the home are allowed and what protocols will be used [Medium];

(11) Program expectations and rules that apply to all children, including an overview of your discipline policy [Medium];

(12) Child grievance procedures [Medium];

(13) The types and frequency of reports to parents [Medium];

(14) Procedures for routine and emergency diagnosis and treatment of medical and dental problems [Medium];

(15) Routine health care relating to pregnancy and childbirth, if you admit and/or care for a pregnant child [Medium];

(16) Your plan for providing health-care services to a child with primary medical needs [Medium];

(17) Transitional living policies, if applicable [Medium-Low];

(18) How you will determine whether it is appropriate for a child to use weapons, firearms, explosive materials, and projectiles, if applicable. This information must be consistent with §749.103(b)(19) of this title (relating to What policies and procedures must I submit for Licensing's approval as part of the application process?) [Medium].

§749.115. What emergency behavior intervention policies must I develop if my foster homes are permitted to use emergency behavior intervention?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

At a minimum, you must develop emergency behavior intervention policies to implement the requirements in Subchapter L of this chapter (relating to Foster Care Services: Emergency Behavior Intervention). The policies must include the following [Medium-High]:

(a) A complete description of emergency behavior interventions that you permit caregivers to use [Medium-High];

(b) The specific techniques that caregivers can use [Medium-High];

(c) The qualifications for caregivers who assume the responsibility for emergency behavior intervention implementation, including required experience and training, and an evaluation component for determining when a specific caregiver meets the requirements of a caregiver qualified in emergency behavior intervention. You must have an on-going program to evaluate caregivers qualified in emergency behavior intervention and the use of emergency behavior interventions [Medium-High];

(d) Your requirements for and restrictions on the use of permitted emergency behavior interventions [Medium-High];

(e) For the orientation required in §749.1111(b)(6) of this title (relating to What orientation must I provide a child?), how you will:

(A) Explain and document to a child in a manner that the child can understand [Medium-High]:

(i) Who can use an emergency behavior intervention [Medium-High];

(ii) The actions a caregiver must first attempt to defuse the situation and avoid the use of emergency behavior intervention [Medium-High];

(iii) The situations in which emergency behavior intervention may be used [Medium-High];

(iv) The types of emergency behavior intervention you permit [Medium-High];

(v) When the use of an emergency behavior intervention must cease [Medium-High];

(vi) What action the child must exhibit to be released from the emergency behavior intervention [Medium-High];

(vii) The way to report an inappropriate emergency behavior intervention [Medium-High];

(viii) The way to provide voluntary comments during or after an emergency behavior intervention [Medium]; and

(ix) The process for making written comments after an emergency behavior intervention, such as comments regarding the incident that led to the emergency behavior intervention, the manner in which a caregiver intervened, and the manner in which the child was the subject or to which they were a witness. You may create a standardized form that is easily accessible or give children the permission to submit comments on regular paper [Medium]; and

(B) Obtain each child's input on preferred de-escalation techniques that caregivers can use to assist the child in the de-escalation process [Medium-High];

(f) Requirements that caregivers must attempt less restrictive and less intrusive emergency behavior interventions as preventive measures and de-escalating interventions to avoid the use of emergency behavior intervention [Medium-High];

(g) Training for emergency behavior intervention. The policy must include a description of the emergency behavior intervention training curriculum that meets the requirements in the rules of this chapter, the amount and type of training required for different levels of caregivers (if applicable), training content, and how the training will be delivered [Medium-High]; and

(h) Prohibitions for discharging or otherwise retaliating against:

(A) An employee, child in care, foster parent or other adult client, resident, or other person for filing a complaint, presenting a grievance, or otherwise providing in good faith information relating to the misuse of emergency behavior intervention at the agency or foster home [Medium-High]; or

(B) A child in care, foster parent or other adult client, or resident because someone on behalf of the client or resident files a complaint, presents a grievance, or otherwise provides in good faith information relating to the misuse of emergency behavior intervention at the agency or foster home [Medium-High].

§749.117. What are the requirements for my discipline policies for children in care?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

(a) You must develop discipline policies for children in foster care or in an adoptive placement prior to consummation that must [Medium]:

(1) Guide caregivers and employees in the methods used for the discipline of children [Medium];

(2) Integrate trauma informed care into the care, treatment, and management of each child [Medium];

(3) Include measures for positive responses to appropriate behavior [Medium];

(4) Include the importance of nurturing behavior, stimulation, and promptly meeting the child's needs [Medium]; and

(5) Include a statement that discipline of any type is not allowable for infants [Medium].

§749.119. What foster care policies must I develop?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

You must develop foster care policies that include the following [Medium]:

(1) Criteria and procedures for screening and accepting foster parent applicants or agency home caregivers who can meet the needs of the children your agency serves [Medium];

(2) Criteria for making decisions about the number, ages, gender, and needs of children who may be placed in a foster home [Medium];

(3) Pre-service and annual training requirements for foster parents or agency home caregivers that at a minimum meet the requirements of Subchapter F of the Chapter (relating to Training and Professional Development) [Medium-Low]; and

(4) Policies on how you will provide services if the home provides more than one type of care.

§749.121. What policies must I develop concerning the rights and responsibilities of the child-placing agency and foster parents?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

You must develop policies clearly stating the rights and responsibilities of the child-placing agency and foster parents. The policies must specify [Medium-Low]:

(1) What decisions you will make, what decisions the foster parents will make, and which ones you and the foster parents must agree upon. This policy must support normalcy consistent with Subchapter M, Division 7 of this chapter (relating to Normalcy) [Medium-Low];

(2) For training requirements for foster parents:

(A) What part you will provide [Medium-Low];

(B) What part the foster parents must acquire on their own [Medium-Low]; and

(C) A statement about who will be responsible for training fees, travel expenses, and associated child-care costs [Low];

(3) How you and the foster parents will communicate with each other [Medium-Low];

(4) The amount of reimbursement you will provide the foster parents and when the foster parents will receive it [Low];

(5) The type of relevant information and pre-placement contact you will provide, so the foster parents can make an informed decision about a placement [Medium-Low];

(6) How much discretion the foster parents have in accepting or declining specific placements [Low];

(7) The type and amount of support and services that are available to foster parents, including what support and services you will provide for babysitting, overnight care, and respite child-care services [Medium];

(8) The type of information that the foster parents must report to you and within what time frames [Medium-Low];

(9) The foster parents' role in the services to children in care, including expectations for the foster parents' participation in service planning and implementation of the service plan [Medium-Low];

(10) The foster parents' right to appeal your actions and decisions that affect them and the procedures for making an appeal [Low];

(11) The responsibilities of the child-placing agency and the foster parents for complying with the rules of this chapter [Medium]; and

(12) How foster parents may review their child-placing agency home record [Low].

§749.123. What policies must I develop regarding foster parents who provide treatment services to a child with primary medical needs?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

Your support and services policies for foster parents that are required in §749.121(a)(7) of this title (relating to What policies must I develop concerning the rights and responsibilities of the child-placing agency and foster parents?) must include the provision of overnight care and respite care for foster parents who provide treatment services to a child with primary medical needs. The policies must include [Medium]:

(1) Making arrangements to provide at least 72 hours of overnight care to the foster parents each year [Medium]; and

(2) Providing respite child care services as necessary [Medium].

§749.125. What policies must I develop for foster parents who offer a transitional living program?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

For foster parents who offer a transitional living program, you must develop policies that address the following [Medium-Low]:

(1) Criteria used to select participants for the program [Medium-Low];

(2) Supervision of participants consistent with §749.2597 of this title (relating to Where must the caregivers reside in order to supervise children who are in a transitional living program?) [Medium-Low];

(3) Expected behaviors of participants and consequences for failure to comply [Medium];

(4) Training, education, and experiences to be achieved in the program [Low]; and

(5) Roles of participants, agency employees, contract staff, and caregivers [Medium-Low].

§749.127. What policies must I develop for babysitters, overnight care providers, and respite care providers?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

For both in-home and out-of-home care, you must develop policies specifically for babysitters, overnight care providers, and respite care providers that include [Medium-Low]:

(1) Minimum age for each type of provider [Medium-Low];

(2) Minimum amount and type of prior child-care experience that each type of provider must have [Medium-Low];

(3) Amount and type of training each type of provider must have [Medium-Low];

(4) Reference and background information that foster parents or you must obtain before using each type of provider [Medium-Low];

(5) Number of children that each type of provider can care for [Medium-Low];

(6) Information that the foster parents must share with a provider, including information about the children in care and emergency contact information for the foster parent and the agency [Medium-Low];

(7) Specific care instructions that the foster parents must share with a provider for children with treatment needs [Medium-Low];

(8) A method for contact between the foster parent (and/or the child-placing agency) and provider during the time of the provider's care [Medium-Low];

(9) Procedures for agency review and approval of arrangements [Medium-Low]; and

(10) Requirements for documentation of arrangements, including agency child placement staff review and approval, in the foster home record [Low].

§749.129. What policies must I develop for a legal risk placement program for foster- adoptive families?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

If you operate a legal risk placement program, you must develop policies that specify [Medium-Low]:

(1) The requirements for foster-adoptive families to participate in this program [Low]; and

(2) Criteria used in selecting children for appropriate legal-risk placements.

§749.131. What policies must I develop if I offer adoption services?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

You must develop policies for adoption services that include:

(1) Procedures and criteria for qualifying, screening, and selecting adoptive parents, including the [Medium-Low]:

(A) Criteria you will use to evaluate potential adoptive parents [Medium-Low];

(B) Criteria you will use to make decisions about placing specific children with an adoptive family [Medium-Low]; and

(C) Procedures you will use to implement the selection criteria [Medium-Low];

(2) Training and programs for the adoptive parents [Medium-Low];

(3) Statement of the rights and responsibilities of the agency and adoptive parents prior to the consummation of the adoption [Low];

(4) How you will assist the adoptive homes on how to best preserve the cultural identity of the children in their care [Medium-Low];

(5) Fees charged to adoptive parents and reimbursements to birth mothers consistent with Division 5 of this subchapter (relating to Financial Assistance to Birth Mothers) [Low];

(6) Services that will be offered to birth parents [Low];

(7) Degree to which birth parents may be involved in planning for and placing their child [Low]; and

(8) Post adoption services that will be offered to adoptive parents, adopted children, and birth parents [Low].

§749.133. What policies must I develop if I use volunteers?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

If you use volunteers, you must develop policies that [Medium-Low]:

(1) Include job descriptions and/or responsibilities for the volunteers [Medium-Low];

(2) Address qualifications, screening, and selection procedures for the volunteers [Medium-Low];

(3) Address orientation and training programs for the volunteers [Medium-Low];

(4) Address supervision of volunteers [Medium-Low]; and

(5) Address volunteer contact with children in care [Medium-Low].

§749.135. What abuse and neglect policies must I develop?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

You must develop policies on preventing, recognizing, and responding to abuse and neglect of children, including [Medium-High]:

(1) Required annual training for employees [Medium-High];

(2) Methods for increasing employee awareness of issues regarding child abuse and neglect, including warning signs that a child may be a victim of abuse or neglect [Medium-High];

(3) Methods for increasing employee awareness of prevention techniques for child abuse and neglect [Medium-High];

(4) Strategies for coordination between the agency and appropriate community organizations [Medium-High]; and

(5) Actions that the parent of a child who is a victim of abuse or neglect should take to obtain assistance and intervention [Medium-High].

§749.136. What suicide prevention, intervention, and postvention policy must I have?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

September 2022

(a) A child-placing agency that is licensed or certified to provide only foster care services or to provide both foster care services and adoption services must adopt either [Medium-High]:

(1) The model suicide prevention, intervention, and postvention policy in §749.137 of this division (relating to What is the model suicide prevention, intervention, and postvention policy?); or

(2) Another suicide prevention, intervention, and postvention policy that is approved by the Executive Commissioner of the Texas Health and Human Services Commission or designee and:

(A) Addresses suicide prevention, intervention, and prevention for children in the care of your agency;

(B) Is based on current and best evidence-based practices;

(C) Requires employees to receive annual suicide prevention training that includes understanding of safety planning and screening for risk;

(D) Requires foster parents in homes verified to care for children five years of age or older to complete at least one hour of suicide prevention training:

(i) Within a year of being verified; and

(ii) every two years thereafter;

(E) Promotes suicide prevention training for non-employees, as appropriate; and

(F) Includes plans and procedures to support children who return to your agency's care following hospitalization for a mental health condition.

(b) The suicide prevention, intervention, and postvention policy adopted under subsection (a) of this section may be part of a broader mental health crisis plan if the components of the plan include suicide prevention, intervention, and postvention.

§749.137. What is the model suicide prevention, intervention, and postvention policy?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

September 2022

(a) Purpose. The purpose of the model suicide prevention, intervention, and postvention policy is to:

(1) Protect the health and well-being of children in an agency's care by implementing procedures to prevent suicide, including screening and assessment procedures for risk of suicide;

(2) Require intervention when a child attempts or dies by suicide; and

(3) Address the needs of children in an agency's care, employees, caregivers, and adoptive parents after a child attempts or dies by suicide.

(b) Definitions.

(1) Postvention--Activities that promote healing and reduce the risk of suicide by a person affected by the suicide of another.

(2) Protective factors of suicide--Characteristics that make it less likely that a child will consider, attempt, or die by suicide, including:

(A) Effective behavioral health care;

(B) Connectedness to individuals, family, community, and social institutions;

(C) Supportive relationships with caregivers;

(D) Problem-solving skills, coping skills, and ability to adapt to change;

(E) Self-esteem or sense of purpose; and

(F) Cultural or personal beliefs that discourage suicide.

(3) Risk factors of suicide--Characteristics or conditions that increase the chance that a child may consider, attempt, or die by suicide, including:

(A) A prior suicide attempt;

(B) Knowing someone who died by suicide, particularly a family member, friend, peer, or hero;

(C) Access to lethal means;

(D) History of childhood trauma, including neglect, physical abuse, or sexual abuse or assault;

(E) A history of being bullied;

(F) A mental health diagnosis, particularly depressive disorders and other mood disorders;

(G) Abuse of alcohol or drugs;

(H) Social isolation;

(I) Severe or prolonged stress;

(J) Chronic physical pain or illness;

(K) Loss of a family member; or

(L) The ending of a relationship.

(4) Suicide contagion--Exposure to suicide or suicidal behaviors within a family, or from friends or media reports, that can result in an increase in suicide or suicidal behaviors.

(5) Suicide risk assessment--A comprehensive evaluation of a child by a medical health professional to confirm suspected suicide risk, estimate the immediate danger to the child, and decide on a course of treatment and a plan for intervention to ensure the child's safety.

(6) Suicide risk screening--A procedure in which a standardized instrument is used to identify children who may be at risk of suicide. The screening may be done orally (with the screener asking questions), with pencil and paper, or using a computer.

(7) Warning signs of suicide--Indicators that a child may be in danger of suicide and need help, including:

(A) Talking about wanting to die or to hurt or kill oneself;

(B) Looking for a way to kill oneself;

(C) Being preoccupied with death in conversation, writing, or drawing;

(D) Talking about feeling hopeless or having no reason to live;

(E) A change in personality;

(F) Giving away belongings;

(G) Withdrawing from friends and family;

(H) Having aggressive or hostile behavior;

(I) Neglecting personal appearance;

(J) Running away from home or a residential placement; or

(K) Risk-taking behavior, such as reckless driving or being sexually promiscuous.

(c) Prevention--Training.

(1) Employees and foster parents must complete at least one hour of suicide prevention training as follows [High]:

(A) Employees must complete the training annually [Medium];

(B) Foster parents verified to care for children five years of age or older must complete the training:

(i) Within a year of verification [Medium]; and

(ii) Every two years thereafter [Medium]; and

(C) The suicide prevention training must meet the instructor and documentation requirements of Subchapter F, Division 7 of this chapter (relating to Annual Training).

(2) The curriculum for the suicide prevention training in paragraph (1) of this subsection must include [Medium]:

(A) The risk factors, protective factors, and warning signs of suicide;

(B) Understanding safety planning, including:

(i) How safety plans are created;

(ii) How safety plans are shared with employees and caregivers;

(iii) How safety plans are expected to be implemented by employees and caregivers; and

(iv) Each employee's or caregiver's role in the prevention of suicide, including never leaving a child alone if the suicide risk screening finds that the child is a high risk for suicide, until a mental health professional conducts a suicide risk assessment; and

(C) Understanding suicide screening, including clarifying:

(i) Each person's role in the screening process;

(ii) When an employee or caregiver should initiate a suicide risk screening for a child; and

(iii) What actions an employee or caregiver must take to initiate a suicide risk screening for a child.

(3) The agency must promote suicide prevention training for non-employees, as appropriate. [Low]

(d) Prevention--Suicide Risk Screening.

(1) The policy must describe the suicide risk screening tool that you will use and the process for implementing the screenings. [Medium]

(2) The suicide risk screening tool must be supported by evidence-based research demonstrating the tool performs reliably regardless of who administers the tool or performs the scoring or rating. [Medium-High]

(3) Any person who meets the conditions and training requirements of the screening tool manual or instructions may administer the suicide risk screening to a child. You must document that any person conducting a screening meets the conditions and training requirements. [Medium-High]

(4) For children receiving foster care services, the screening tool must be administered :

(A) At admission for each child 10 years of age or older [Medium];

(B) At admission for each child younger than 10 years of age if:

(i) The information provided to the operation at the time of admission indicates that the child has a history of suicide attempts or suicidal thoughts [Medium-High]; or

(ii) The parent who admits the child, a foster parent, or child-placing agency requests a screening to be administered because of the child's risk factors or warning signs of suicide [Medium];

(C) Every 90 days after admission for all children 10 years of age or older [Medium]; and

(D) Immediately for a child of any age whenever the child exhibits warning signs of suicide that necessitate a suicide screening be conducted, including when requested by a foster parent. [Medium-High]

(5) For children receiving adoption services, the screening tool must be administered immediately for a child of any age whenever the child exhibits warning signs of suicide that necessitate a suicide screening be conducted, including when requested by an adoptive parent. [Medium-High]

(6) Any screening must be performed in a manner that protects the child's privacy. [Medium-Low]

(7) Each screening must be documented in the child's record. [Medium]

(e) Intervention--Based on the Results of a Suicide Risk Screening.

(1) If the suicide risk screening finds the child to be a high risk for suicide, the agency, caregiver, or adoptive parent must [High]:

(A) Immediately refer the child to a mental health professional for a suicide risk assessment;

(B) Not leave the child alone until a mental health professional assesses the child;

(C) Remove any harmful objects, chemicals, or substances that a child could use to carry out a suicide attempt;

(D) Alert each person responsible for the child's care or supervision of the high risk for suicide and any new or updated safety plan; and

(E) Upon conclusion of the risk assessment, follow through on recommendations by the mental health professional and update the child's safety plan and service plan accordingly.

(2) If the suicide risk screening finds the child to have a potential for risk of suicide, the agency, caregiver, or adoptive parent must [Medium-High]:

(A) Refer the child to a mental health professional for a suicide risk assessment within 24 hours;

(B) Closely monitor the child to ensure the child's safety until a mental health professional assesses the child;

(C) Remove any harmful objects, chemicals, or substances that a child could use to carry out a suicide attempt;

(D) Alert each person responsible for the child's care or supervision of the potential risk of suicide and any new or updated safety plan; and

(E) Upon conclusion of the risk assessment, follow through on recommendations by the mental health professional and update the child's safety plan and service plan accordingly.

(f) Intervention--Returning Post Hospitalization. To ensure a child's readiness to return to care under the same child-placing agency following a mental health crisis (for example, from a suicide attempt or psychiatric hospitalization):

(1) Child placement management staff must meet with the child within 24 hours of the child's arrival to a home to discuss protocols that would help to ease the child's transition into the home post hospitalization, ensure the child's safety, and reduce any risk of suicide. [Medium-High]

(2) The protocols must include [Medium-High]:

(A) Weekly suicide risk screenings for the first 30 days or until the child is no longer reporting suicidal thoughts, whichever is longer;

(B) Creating or reviewing and updating the child's safety plan; and

(C) Removal of any harmful objects, chemicals, or substances that a child could use to carry out a suicide attempt or self-harm for a period to be determined by the treatment team, but not less than 30 days.

(3) The agency must alert any persons responsible for the child's care or supervision of the new protocols and new or updated safety plan. [Medium-High]

(g) Postvention.

(1) Addressing Suicide Deaths.

(A) Create a Postvention Team and Written Action Plan and Protocols. To prevent suicide contagion and support employees, children, caregivers, and adoptive parents, you must create a postvention team. This team is responsible for developing a written action plan with protocols in the event of a death by suicide. The postvention team should consider [Medium]:

(i) How a death would affect employees, caregivers, adoptive parents, and other children receiving services in the home where the death occurred; and

(ii) How to provide psychological first-aid, crisis intervention, and other support to the employees, caregivers, adoptive parents, and other children receiving services in the home where the death occurred.

(B) While the action plan needs to be flexible for varying situations, the written action plan must include:

(i) A communication strategy that [Medium]:

(I) Does not inadvertently glamorize or romanticize the child or the death;

(II) Occurs in settings that allow the postvention team to monitor responses of individuals in the home;

(III) Strives to treat all deaths in the same way (for example, having one approach for honoring a child who dies from cancer, a car accident, or suicide);

(IV) Emphasizes the importance of seeking help for anyone with an underlying mental health diagnosis, such as a mood disorder;

(V) Emphasizes the importance of employees, caregivers, adoptive parents, and children recognizing the signs of suicide; and

(VI) Decreases the stigma associated with seeking help for mental health concerns;

(ii) Mental health resources for employees, caregivers, adoptive parents, and children who have a difficult time coping, including [Medium]:

(I) Opportunities to debrief to process thoughts and feelings related to the suicide death; and

(II) Referrals to grief counseling and suicide survivor support groups to the extent possible; and

(iii) A review of lessons learned from the child's death by suicide. All communications regarding lessons learned should be approached in a way that ensures a blame-free environment. [Medium-High]

(2) Addressing Suicide Attempts. In the event of a suicide attempt according to §749.505 of this chapter (relating to What constitutes a suicide attempt by a child?):

(A) The caregiver must, as needed, immediately call emergency services and render first aid until professional medical treatment can be provided [High];

(B) The caregiver must not leave the child alone until a mental health professional assesses the child [High];

(C) The caregiver must move all other children out of the immediate area as soon as possible [Medium];

(D) The agency must report and document the suicide attempt as a serious incident as required by:

(i) §749.503(a)(12) of this chapter (relating to When must I report and document a serious incident?);

(ii) §749.511 of this chapter (relating to How must I document a serious incident?); and

(iii) §749.513(1) of this chapter (relating to What additional documentation must I include with a written serious incident report?);

(E) The agency must offer mental health resources for employees, caregivers, and children who have a difficult time coping, including [Medium]:

(i) Opportunities to debrief to process thoughts and feelings related to the suicide attempt; and

(ii) Referrals to community services and other resources when a child has attempted suicide; and

(F) The agency must conduct a review of lessons learned from the child's suicide attempt. All communications regarding lessons learned should be approached in a way that ensures a blame-free environment. [Medium-High]

Technical Assistance

- Regarding subsection (c)(1)(C) for annual suicide prevention training:
  - More than likely training on suicide prevention will have to be tailored for each operation because some of the training is based on an operation's own safety planning and the specific screening tool an operation uses to screen for risk. However, related to training on risk factors, protective factors, and warning signs of suicide, one resource that might be helpful is the AS+K? Basic Gatekeeper Training.
  - An inspector should cite:
    - §749.939(a)(1) – (4) if the training doesn't meet the instructor-led requirements; and
    - §749.949 if the training documentation requirements are not met.
- Regarding subsection (c)(1) suicide prevention training for employees and foster parents and subsection (d)(3) training on the suicide risk screening tool, both types of training may be used to complete the annual training requirements at §749.930 and §749.931.
- Regarding subsection (c)(3):
  - Examples of non-employees that may be appropriate for suicide prevention training are non-employees that have routine contact with a child or perform a supervisory role for the child.
  - You do not have to promote suicide prevention training for foster parents verified to care for children five years of age or older because those foster parents are already required to receive routine suicide prevention training.
  - Examples of promoting suicide prevention training include sharing your suicide prevention policies and other relevant resources with the appropriate non-employees or encouraging appropriate non-employees to participate in other specific suicide prevention training.
- Regarding subsection (d)(2), you may use any evidenced-based screening tool that is appropriate for your program. Two screening tools that are free, evidence-based, and have ample research supporting their validity and reliability, are the:
  - Columbia-Suicide Severity Rating Scale (CSSRS); and
  - Ask Suicide Screening Questions (ASQ).

§749.138. What are the general requirements for an **agency's policies** and procedures?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

September 2022

(a) The requirements for policies only apply to your policies that are required or governed by this chapter.

(b) All employees and caregivers must be aware of and follow your policies and procedures [Medium].

§749.139. What requirements must I follow when adopting my child-**placing agency's plans, policies, and procedures?**

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

(a) Your agency's plans, policies, and procedures must indicate the date on which you adopted them and their effective date [Medium-Low].

(b) You must formalize the adoption of your agency's plans, policies, and procedures as appropriate for your type of ownership:

(1) If you are a sole proprietor, you must sign them date [Medium-Low];

(2) If you are a partnership, each partner must sign them date [Medium-Low]; or

(3) If you are a corporation or other type of business entity, the governing body must take a written action to adopt (sometimes this may be an order or the adoption may be included in the minutes of the governing body) date [Medium-Low].

§749.141. Can Licensing cite my agency for a deficiency if I fail to operate according to my approved plans, policies, and procedures?

Subchapter C, Organization and Administration

Division 1, Required Plans and Policies, Including During the Application Process

January 2017

Yes, if you violate plans, policies, or procedures, then we may cite the relevant standard in Division 1 of this Subchapter (relating to Plans and Policies Required During the Application Process) as a deficiency;

Technical Assistance
• Licensing only enforces plans, policies, and procedures required by the minimum standards. For example, Licensing does not enforce your policies on purchase approvals. In addition, Licensing will not cite this standard if you meet a specific minimum standard but do not meet your policy that requires more than the minimum standard. For example, if your policy requires caregivers to complete 12 hours of general pre-service training and inspection results indicate an employee only completed ten hours of training, we will not cite you for failing to meet your policy. • If this Chapter contains another relevant minimum standard, then that standard would be cited for failure to comply with a policy. For example and using the same example as above, if an employee only completed six hours of general pre-service training, we will cite §749.863(a)(1) because the minimum standards require eight hours of general pre-service training. However, if there isn't another relevant minimum standard, then we would cite the relevant standard in Division 1. For example, if your professional staffing plan became outdated, then we would cite §749.105(3).

Division 2, Operational Responsibilities and Notifications

§749.151. What are my operational responsibilities?

Subchapter C, Organization and Administration

Division 2, Operational Responsibilities and Notifications

April 2021

While you are operating, you must:

(1) Have a designated full-time child-placing agency administrator who meets the minimum qualifications of §749.631 of this title (relating to What qualifications must a child-placing agency administrator meet?) [High];

(2) Operate according to your approved plans, policies, and procedures [Medium];

(3) Maintain current, true, accurate, and complete records [Medium];

(4) Allow us to inspect your child-placing agency during its hours of operation [Medium-High];

(5) Allow us to inspect or monitor any of your foster homes at any time [Medium-High];

(6) Not offer unrelated types of services that conflict or interfere with the best interests of a child in care, a caregiver's responsibilities, or space in the homes. If you offer more than one type of service, you must determine and document that no conflict exists [Medium-High];

(7) Comply with the liability insurance requirements in this division [Medium]; and

(8) Prepare the annual budget and control expenditures and ensure compliance with Division 3 of this Subchapter (relating to General Fiscal Requirements) [Medium].

Technical Assistance
Regarding subsection (2), Licensing only enforces this requirement for plans, policies, and procedures required by the minimum standards. For example, Licensing does not enforce your policies on purchase approvals. In addition, Licensing will not cite this standard if you meet a specific minimum standard but do not meet your policy that requires more than the minimum standard. For example, if your policy requires caregivers to complete 12 hours of general pre-service training and inspection results indicate an employee only completed ten hours of training, we will not cite you for failing to meet your policy. But if an employee only completed six hours of training, we will cite you for a deficiency because the minimum standards require eight hours of general pre-service training.

§749.153. What changes must I notify Licensing about regarding my child-placing agency?

Subchapter C, Organization and Administration

Division 2, Operational Responsibilities and Notifications

October 2023

(a) You must provide written notification to your Licensing Representative:

(1) As soon as possible, but at least 30 days before you:

(A) Change the legal structure of your agency or your governing body, if applicable [Medium-Low];

(B) Move your agency to another location as required in §745.435 of this title (relating to What must I do if I relocate my operation after I receive my license or certification?) [Medium-High];

(C) Open a branch office [Medium]; or

(D) Change your agency's or a branch office's hour of operation [Medium-Low];

(2) As soon as possible, but at least 15 days before you:

(A) Make changes to the plans required in §749.101(3) and (4) of this subchapter (relating to What plans must I submit for Licensing's approval as part of the application process?) [Medium-Low]; or

(B) Make changes to the policies and procedures required in 749.103(b) of this subchapter (relating to What policies and procedures must I submit for Licensing's approval as part of the application process?) [Medium-Low];

(3) As soon as possible, but no later than two days after:

(A) You change your child-placing agency administrator, or your child-placing agency administrator position becomes vacant [Medium-High].

(B) A new individual becomes a controlling person at your child-placing agency [Medium-High];

(C) An individual ceases to be a controlling person at your child-placing agency [Medium-High]; or

(D) There is a significant change in the information we maintain about a controlling person, such as a name change or mailing address change [Medium-Low]; and

(4) About a foster home's verification status as described in §749.2489 of this chapter (relating to What information must I submit to Licensing about a foster home's verification status?) [Medium-Low].

(b) You must report to the Texas Abuse and Neglect Hotline as soon as you become aware of any foster or adoptive placements that appear to have been made by someone other than the child's parents or a child-placing agency [Medium-Low].

Technical Assistance
Licensing does not automatically approve an action when you provide the required notice to your Licensing Representative. Additional action may need to be taken by you or Licensing. For example, changing the legal structure of your agency may require a new license; and opening a new branch office requires you to also comply with §749.303 of this title (relating to What must I do before opening a branch office).

§749.154. What is my timeframe for filling my child-placing agency administrator position if it becomes vacant while I do not have a back-up administrator to carry out the administrator duties?

Subchapter C, Organization and Administration

Division 2, Operational Responsibilities and Notifications

October 2023

If you do not have a back-up child-placing agency administrator when your administrator position becomes vacant, to carry out the duties in §749.635 of this chapter (relating to What responsibilities must the child-placing agency administrator have?), you have 60 days from the date the position becomes vacant to obtain a licensed child-care administrator before we can cite you for not having an administrator.

§749.155. What are the liability insurance requirements?

Subchapter C, Organization and Administration

Division 2, Operational Responsibilities and Notifications

April 2021

Unless you have an acceptable reason not to have the insurance, you must:

(1) Maintain liability insurance coverage in the amount of $300,000 for each occurrence of negligence that covers injury to a child while the child is on your premises or in your care [Medium]; and

(2) Provide proof of coverage to Licensing each year by the anniversary date of the issuance of your permit. [Medium]

§749.157. What are acceptable reasons not to have liability insurance?

Subchapter C, Organization and Administration

Division 2, Operational Responsibilities and Notifications

April 2021

(a) You do not have to have liability insurance that meets the requirements of §749.155 of this division (relating to What are the liability insurance requirements?) if you cannot carry insurance because:

(1) Of financial reasons;

(2) You are unable to locate an underwriter who is willing to issue a policy to the operation; or

(3) You have already exhausted the limits of a policy that met the requirements.

(b) If you cannot carry liability insurance or stop carrying the insurance because of a reason listed in subsection (a) of this section, you must send written notification to Licensing by the anniversary date of the issuance of your permit. Your notification must include the reason that you cannot carry the insurance. [Medium]

§749.159. When must I notify parents that I do not carry liability insurance?

Subchapter C, Organization and Administration

Division 2, Operational Responsibilities and Notifications

April 2021

(a) If you do not carry liability insurance that meets the requirements of §749.155 of this division (relating to What are the liability insurance requirements?), then you must notify the parent of each child in your care in writing that you do not carry liability insurance before you admit the child into your care. [Medium]

(b) If you previously carried the liability insurance and subsequently stop carrying the liability insurance, then you must notify the parent of each child in your care in writing that you do not carry the insurance within 14 days after you stop carrying it. [Medium]

(c) You may use Form 2962, Verification of Liability Insurance, located on the Licensing provider website, to notify parents. Regardless of whether you use this form, you must be able to demonstrate that you provided written notice to the parents of each child in your care.

Technical Assistance
It is important that parents both understand and acknowledge whether your operation carries liability insurance. Possible means of communicating this requirement include: ● Using a form specific to liability insurance that requires a parent signature that you maintain in the child's file; ● Including a statement or addendum about liability insurance in your operational policies or parent handbook, and maintain in the child's file a document with a parent signature or initials specifically acknowledging the liability insurance information; or ● Maintaining a copy of any electronic communication sent to a parent regarding liability insurance, including the date and address to which the communication was sent.

Division 3, General Fiscal Requirements

§749.161. What are my fiscal requirements?

Subchapter C, Organization and Administration

Division 3, General Fiscal Requirements

January 2017

(a) You must establish and maintain your agency on a sound fiscal basis, including [Medium]

(1) Paying your employees timely [Medium];

(2) Paying foster parents per your agreement with them [Medium]; and

(3) Making sure the needs of children in care are being met [Medium].

(b) You must maintain complete financial records that comply with Generally Accepted Accounting Principles, including:

(1) Accounting for a child's money separately from the funds of your agency and the foster home. You may not use a child's personal earnings, allowances, or gifts to pay for the child's room and board, unless such a use is a part of the child's service plan and the child's parent approves it in writing. You must give or send the child's money to the child, parent, or next placement within 30 days of the child's discharge [Medium-Low]; and

(2) Making one of the following available for our review:

(A) An annual review of your financial records conducted by an independent Certified Public Accountant in accordance with the Generally Accepted Accounting Principles [Medium-Low]; or

(B) Proof of reserve funds equal to at least three months of operating expenses for your agency [Medium-Low].

Division 4, Fiscal Requirements for Adoption Agencies

§749.191. What type of financial report must I submit to Licensing if I provide adoption services?

Subchapter C, Organization and Administration

Division 4, Fiscal Requirements for Adoption Agencies

January 2007

(a) You must submit an annual financial report to us on a form that we provide. The report must include [Low]:

(1) Information on adoption-related income from all sources, including the source of the income and the amount [Low]; and

(2) Adoption-related agency expenses, including the expense category and the category detail [Low].

(b) You must submit the financial report to us within 60 days of the end of your agency's fiscal year [Low].

§749.193. May I make payments for adoption referrals?

Subchapter C, Organization and Administration

Division 4, Fiscal Requirements for Adoption Agencies

January 2007

No, you may not make any payments for adoption referrals [Low].

§749.195. What types of fees may I collect prior to the completion and approval of a home study?

Subchapter C, Organization and Administration

Division 4, Fiscal Requirements for Adoption Agencies

January 2007

You may only accept reasonable application fees, home study fees, and fees for education and training of the prospective adoptive parents prior to the completion of the home study [Low].

§749.197. For adoption services, what fee policies must I have?

Subchapter C, Organization and Administration

Division 4, Fiscal Requirements for Adoption Agencies

January 2007

(a) For adoption services, you must have an adoption fee or adoption fee schedule that you apply to all clients. The policy must include the type of expenditures you will meet for birth parents and whether you will do so through an overall fee, pass-through expenses, or some combination. Policies on pass-through expenses must comply with all requirements listed in §749.273 of this title (relating to What must I do if I pass through expenses to adoptive families?) [Low].

(b) If you charge additional fees, your policy must explain clearly what the fees cover. [Low]

(c) You must have a clear policy on refunds [Low].

§749.199. Must I charge the same fees for all adoptions?

Subchapter C, Organization and Administration

Division 4, Fiscal Requirements for Adoption Agencies

January 2007

No, you are not required to charge the same fees for all adoptions. The fee or fee schedule may take into consideration relevant factors such as adoptive placement of children considered to be hard to place. You may also have a sliding scale fee schedule. The parameters of any differential fee schedules must be specified and equally applied [Low].

Division 5, Financial Assistance to Birth Mothers

§749.231. What financial assistance may I provide for a birth mother?

Subchapter C, Organization and Administration

Division 5, Financial Assistance to Birth Mothers

January 2007

(a) You may provide financial assistance to a birth mother to meet her reasonable and necessary living expenses and legal costs [Low].

(b) Reasonable and necessary living expenses include:

(1) Housing expenses;

(2) Necessary utilities, such as electric, water, or telephone bills;

(3) Food for the birth mother and her minor children that are living with her;

(4) Travel expenses for transportation necessary to support the pregnancy, such as gasoline or bus fares to medical appointments or the grocery store;

(5) Medical costs; and

(6) Child-care or foster care while a birth mother is hospitalized or unable to care for her children.

(c) Reasonable and necessary living expenses do not include:

(1) Any expenses met by a birth mother's existing resources [Low];

(2) Any expenses supporting other family members, with the exception of the birth mother's minor children who are living with her [Low];

(3) Any expenses for recreational and leisure activities [Low]; or

(4) The purchase of an automobile [Low].

§749.233. During what period of time may I provide financial assistance to a birth mother?

Subchapter C, Organization and Administration

Division 5, Financial Assistance to Birth Mothers

January 2007

Financial assistance may only be provided [Low]:

(1) During the time of the pregnancy; and

(2) After the pregnancy, during the time the birth mother requires inpatient or outpatient postpartum care.

§749.235. How do I determine the birth mother's need for financial assistance?

Subchapter C, Organization and Administration

Division 5, Financial Assistance to Birth Mothers

January 2007

(a) You must review the birth mother's financial resources [Low].

(b) Your evaluation must include an evaluation of family support, medical insurance, and other resources available [Low].

(c) The evaluation must justify a payment you make for the birth mother's reasonable and necessary living expenses and legal costs related to the adoption and, if applicable, post partum care [Low].

(d) You must document the evaluation and provide a copy to the birth mother [Low].

§749.237. How do I document financial assistance that I provide for a birth mother?

Subchapter C, Organization and Administration

Division 5, Financial Assistance to Birth Mothers

January 2007

(a) You must document financial assistance that you provide for the birth mother through receipts [Low].

(b) A receipt must include the date, payee identification, purpose of payment, and documentation that the funds were expended for services rendered or goods provided for the birth mother [Low].

(c) You must organize and maintain this documentation in the individual record of the birth mother [Low].

§749.239. May I provide cash payments to birth mothers?

Subchapter C, Organization and Administration

Division 5, Financial Assistance to Birth Mothers

January 2007

(a) For reasonable and necessary living expenses, you may provide cash payments to birth mothers to cover the cost of day-to-day routine purchases, such as food, household supplies, personal hygiene or grooming items, and gasoline or public transportation if your policies [Low]:

(1) State when and for what purpose you can make cash payments to a birth mother [Low];

(2) Establish a maximum amount per category, per time period, based on the current rates in the community in which the care is provided [Low]; and

(3) Require you to obtain documentation from a birth mother acknowledging receipt of the payments [Low].

(b) Each cash disbursement may cover a period of up to one month [Low].

§749.241. If a birth mother decides not to relinquish a child for adoption, may I require her to repay my agency or the adoptive parent for expenses and services incurred?

Subchapter C, Organization and Administration

Division 5, Financial Assistance to Birth Mothers

January 2007

(a) No, you may not require a birth mother to repay you for expenses and/or services incurred [Low].

(b) You must inform a birth mother of this policy in writing upon establishing any formal relationship between your agency and a birth mother and post it in the agency's offices in a place routinely visible to birth mothers. The written policy provided to the birth mother must be in a language spoken and read by the birth mother [Low].

§749.243. May I provide foster care services free of charge or at a reduced rate to a birth mother that needs time to make a decision about adoptive placement?

Subchapter C, Organization and Administration

Division 5, Financial Assistance to Birth Mothers

January 2007

Yes, as long as the foster care services provided free of charge or at a reduced rate are not contingent upon the relinquishment of the child for adoption, you may provide the foster care services [Low].

§749.245. If a birth mother's needs are met through existing resources, can I disrupt that arrangement?

Subchapter C, Organization and Administration

Division 5, Financial Assistance to Birth Mothers

January 2007

(a) If a birth mother's needs are met through an existing resource, you must not, by action or advice, disrupt that unless your child placement management staff determines that it is in the best interest of the birth mother and her child that other arrangements be made based on documented proof that her current living situation impacts the basic health or safety of the birth parent or the child, including psychological or emotional abuse. For example, if family members are providing housing at no cost to a birth mother, your agency may not advise the birth mother to move to an apartment for which your agency would pay rent [Low].

(b) This rule applies to any kind of financial assistance.

(c) You must document the impact and determination of best interest before any arrangements are made and/or expenses are paid [Low].

Division 6, Fiscal Accountability/Pass-Through Expenses

§749.271. May I require adoptive families to reimburse me for expenses incurred by the birth mother?

Subchapter C, Organization and Administration

Division 6, Fiscal Accountability/Pass-Through Expenses

January 2007

(a) You may pass through to the adoptive parents certain expenses that [Low]:

(1) You incur on behalf of the birth mother; or

(2) The birth mother incurs.

(b) You cannot pass through expenses for medical or other services that were met through a birth mother's insurance company or some other source or that were provided free to the birth mother [Low].

§749.273. What must I do if I pass through expenses to adoptive families?

Subchapter C, Organization and Administration

Division 6, Fiscal Accountability/Pass-Through Expenses

January 2007

You must meet the following requirements if you pass through the birth mother's expenses to adoptive families:

(1) Your fee policy must include a complete description of the types of expenses that you may pass through to adoptive families [Low].

(2) The fee policy must comply with the financial assistance requirements in Division 5 of this subchapter (relating to Financial Assistance to Birth Mothers) [Low].

(3) You must prepare an individual report for each case where you pass through expenses to the adoptive family. The report must be organized by expense category and include the date, amount, and a description of each expenditure. You must give the report to the adoptive family. The report must be available for our review [Low].

(4) If requested by an adoptive parent, you must provide an itemized list of how pass though money was expended and if there is a surplus [Low].

(5) With the exception of unforeseeable medical and legal expenses, you must provide to the adoptive family a written estimate of the pass-through expenses you anticipate will be associated with the adoption. You must provide this estimate before the adoptive family makes any financial commitment to the placement [Low].

(6) If you exceed the estimated expenses by more than 10%, you must obtain acknowledgement and agreement in writing from the adoptive parents that they will incur the additional expenses. If you cannot reach an agreement with the adoptive parents, you must incur the additional expenses [Low].

(7) If there is a surplus of pass through money, you must refund the surplus back to the adoptive parents [Low].

(8) You must inform the adoptive family, in writing, that:

(A) A birth mother may choose not to relinquish a child for adoption [Low]; and

(B) You are prohibited from seeking repayment from that birth mother for expenses incurred in providing adoption services [Low].

Division 7, Branch Offices

§749.301. What is a branch office?

Subchapter C, Organization and Administration

Division 7, Branch Offices

January 2007

(a) A branch office is anywhere the child placement staff and child master records or foster/adoptive home master records are located.

(b) You may operate a branch office if you:

(1) Maintain compliance with the rules of this chapter [Medium]; and

(2) Are in good standing with us [Medium].

§749.303. What must I do before opening a branch office?

Subchapter C, Organization and Administration

Division 7, Branch Offices

September 2010

At least 30 days prior to the opening of a branch office, you must provide us the following information with your request to amend your license [Medium]:

(1) The address, telephone numbers (if available), and office hours for the branch office [Low];

(2) The name, qualifications, and contact information of the administrative staff person who will be primarily responsible for the day-to-day operation of the branch office [Low];

(3) The name(s), qualifications, and contact information of the child placement management staff that will be responsible for child-placing activities of the branch office [Low];

(4) The name(s) and qualifications of other employees who will be involved in child-placing activities at the branch office [Low]; and

(5) An updated written professional staffing plan that includes how child placement management staff, the Licensed Child-Placing Agency Administrator, and the treatment director, if applicable, will supervise services provided from the branch office [Medium-Low].

§749.304. Where must I have a main or branch office?

Subchapter C, Organization and Administration

Division 7, Branch Offices

January 2017

You must have either a main or branch office [Medium]:

(1) In each region of the department where you verify homes; or

(2) Within 150 miles of each verified foster home

Technical Assistance
Regarding subsection (2): Radial miles should be used when calculating the distance between a main or branch office and each verified foster home.

§749.305. What are the requirements for administrators and treatment directors for a main office and branch offices?

Subchapter C, Organization and Administration

Division 7, Branch Offices

April 2022

(a) You must comply with one of the following [Medium]:

(1) The main office and each branch office must have a separate:

(A) Administrator who meets §749.631 of this title (relating to What qualifications must a child-placing agency administrator meet?); and

(B) Treatment director, if applicable, per §749.721 of this title (relating to Must I have a treatment director?); or

(2) Offices that operate based on the following caseload limits for child placement staff may share the same administrator and treatment director:

(A) A caseload of foster children only that does not exceed:

(i) 35 for children receiving child-care services;

(ii) 25 for children receiving treatment services; and

(iii) 30 for a combination of children receiving child-care services and children receiving treatment services;

(B) A caseload of foster homes only that does not exceed 15 homes; and

(C) A combination caseload of both children and homes that does not exceed 30 cases. Calculate the maximum of 30 cases by counting:

(i) Each child as one case; and

(ii) Each foster family home as one case.

(b) This rule does not apply to a child-placing agency that provides only adoption services, including foster homes verified by a private adoption agency solely for the care of infants awaiting placement in an adoptive home pending the resolution of the child's eligibility for adoption or the readiness of an appropriate adoptive home, or both. This exception does not apply to a foster home that is also the intended adoptive home.

§749.307. What happens to the foster homes supervised by a branch office when the branch office closes?

Subchapter C, Organization and Administration

Division 7, Branch Offices

January 2017

(a) If the branch office closure is related to a corrective or adverse action which Licensing is taking or has taken against your agency, you must [Medium]:

(1) Close a foster home under that branch office; or

(2) Transfer a foster home under that branch office to your main or another branch office, including:

(A) Updating the foster home study per §749.2473 of this title (relating to What must I do to verify a foster home that another child-placing agency has previously verified?), with the exception of new criminal history and central registry background checks [Medium];

(B) Ensuring that all required criminal history and central registry background checks for the foster home have been conducted within the last 24 months [High]; and

(C) Amending the verification certificate [Medium].

(b) If the branch office closure is not related to a corrective or adverse action which Licensing is taking or has taken against your agency, you may transfer the foster homes to the main office or another branch office without updating the foster home screening.

Division 9, Clients and Appeals

§749.421. Who are my clients?

Subchapter C, Organization and Administration

Division 9, Clients and Appeals

January 2017

(a) Anyone can request information from you or attend a meeting open to all interested persons. A person becomes your client when you establish a relationship beyond that available to someone who is merely an interested person.

(b) Your child clients include children in:

(1) Foster care; and

(2) Pre-consummated adoptive placement.

(c) Your adult clients include:

(1) Birth parents, managing conservators, or whoever has legal responsibility for children they are placing in your care;

(2) Foster parent applicants;

(3) Foster parents;

(4) Adoptive applicants;

(5) Adoptive parents prior to consummation of the adoption;

(6) Adoptive parents and birth parents seeking post adoption services; and

(7) Young adults in your care.

§749.423. What rights do my adult clients have?

Subchapter C, Organization and Administration

Division 9, Clients and Appeals

January 2017

When a person becomes your adult client, you must inform the person in writing:

(1) That the rules of this chapter, any compliance reports, and your policies are available for review upon their request [Low];

(2) Of their right to appeal agency actions and decisions that affect them, and the procedures for making an appeal [Low];

(3) Of procedures for making a complaint to us regarding a violation of minimum standards [Low]; and

(4) Of other entities and their phone numbers and addresses where it is appropriate to file complaints, such as the board or state agency that professionally licenses individuals whom you employ or contract with, and the procedures for making complaints to those entities [Low].

§749.425. What must my appeal process include?

Subchapter C, Organization and Administration

Division 9, Clients and Appeals

January 2017

(a) You must have a written appeal process for your adult clients in regard to your actions and decisions that affect those clients [Low].

(b) The process must describe:

(1) How you will inform clients of their right to appeal [Low];

(2) The procedures and time frames for clients to make an appeal [Low];

(3) The criteria or basis that will be used to make the decision [Low];

(4) Who will hear an appeal and make the decision [Low];

(5) Time frames for making a decision and communicating the decision to the client [Low]; and

(6) How the client will be informed of the decision [Low].

(c) You must provide this information to each birth parent, foster parent applicant, or adoptive applicant before you make that person your client [Low].

(d) Your appeal process does not have to involve anyone from outside your agency. An internal review procedure is sufficient.

Subchapter D, Reports and Record Keeping

Division 1, Reporting Serious Incidents and Other Occurrences

§749.501. What do certain terms mean in this subchapter?

Subchapter D, Reports and Record Keeping

Division 1, Reporting Serious Incidents and Other Occurrences

June 2020

These terms have the following meanings in this subchapter:

(1) Serious incident--A non-routine occurrence that has or may have dangerous or significant consequences for the care, supervision, or treatment of a child. The different types of serious incidents are noted in §749.503 of this division (relating to When must I report and document a serious incident?).

(2) Triggered review of a child's unauthorized absences--A review of a specific child's pattern of unauthorized absences when the child has had three unauthorized absences within a 60-day timeframe.

(3) Unauthorized absence--A child is absent from a foster home without permission from the foster parent, or other temporary caregiver, and cannot be located. This includes when an unauthorized person has removed the child from the foster home.

Technical Assistance
Regarding paragraph (3): Child-placing agencies (CPA) should use their best judgment based on the totality of the circumstances on a case by case basis to determine if there is an unauthorized absence. Example 1: if a teenager is routinely late in returning to a foster home from an extracurricular activity, the CPA would likely take the child's routine into account when assessing the possibility of an unauthorized absence. Example 2: If a teenager is on an unsupervised activity and calls and informs the foster parent that he/she will be late in returning to the home, this situation is not likely to be an unauthorized absence.

§749.503. When must a child-placing agency (CPA) report and document a serious incident?

Subchapter D, Reports and Record Keeping

Division 1, Reporting Serious Incidents and Other Occurrences

December 2024

(a) A CPA must report and document the following types of serious incidents involving a child in the CPA's care. The reports must be made to the following entities, and the reporting and documenting must be within the specified time frames:

Figure: 26 TAC §749.503(a)

Serious Incident	(i) To Child Care Regulation? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law Enforcement? (ii) If so, when?
(1) A child dies while in the CPA's care.	(A)(i) YES. (A)(ii) As soon as possible, but no later than 2 hours after the child's death. [Medium-High]	(B)(i) YES. (B)(ii) As soon as possible, but no later than 2 hours after the child's death. [Medium-High]	(C)(i) YES. (C)(ii) Immediately, but no later than 1 hour after the child's death. [Medium-High]
(2) A substantial physical injury or critical illness that a reasonable person would conclude needs treatment by a medical professional or hospitalization.	(A)(i) YES. (A)(ii) Report as soon as possible, but no later than 24 hours after the incident or occurrence. [Medium-High]	(B)(i) YES. (B)(ii) Immediately after ensuring the safety of the child. [Medium-High]	(C)(i) NO. (C)(ii) Not Applicable.

Serious Incident	(i) To Child Care Regulation? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law Enforcement? (ii) If so, when?
(3) Allegations of abuse, neglect, or exploitation of a child; or any incident where there are indications that a child in care may have been abused, neglected, or exploited.	(A)(i) YES, including whether the CPA plans to move the child until the investigation is complete. (A)(ii) As soon as the CPA becomes aware of it. [Medium-High]	(B)(i) YES, including whether the CPA plans to move the child until the investigation is complete. (B)(ii) Immediately after ensuring the safety of the child. [Medium-High]	(C)(i) NO. (C)(ii) Not applicable.
(4) Physical abuse committed by a child against another child. For the purpose of this subsection, physical abuse occurs when there is substantial physical injury, excluding any accident; or failure to make a reasonable effort to prevent an action by another person that results in substantial physical injury to the child.	(A)(i) YES. (A)(ii) As soon as the CPA becomes aware of it. [Medium-High]	(B)(i) YES. (B)(ii) Immediately after ensuring the safety of the child. [Medium-High]	(C)(i) NO. (C)(ii) Not applicable.

Serious Incident	(i) To Child Care Regulation? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law Enforcement? (ii) If so, when?
(5) Sexual abuse committed by a child against another child. For the purpose of this subsection, sexual abuse is: conduct harmful to a child's mental, emotional or physical welfare, including nonconsensual sexual activity between children of any age, and consensual sexual activity between children with more than 24 months difference in age or when there is a significant difference in the developmental level of the children; or failure to make a reasonable effort to prevent sexual conduct harmful to a child.	(A)(i) YES. (A)(ii) As soon as the CPA becomes aware of it. [Medium-High]	(B)(i) YES. (B)(ii) Immediately after ensuring the safety of the child. [Medium-High]	(C)(i) NO. (C)(ii) Not applicable.

Serious Incident	(i) To Child Care Regulation? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law Enforcement? (ii) If so, when?
(6) A child is indicted, charged, or arrested for a crime; or when law enforcement responds to an alleged incident at the foster home that could result in criminal charges being filed against the child.	(A)(i) YES. (A)(ii) As soon as possible, but no later than 24 hours after the CPA becomes aware of it. [Medium]	(B)(i) YES. (B)(ii) As soon as the CPA becomes aware of it. [Medium]	(C)(i) NO. (C)(ii) Not applicable.
(7) A child is issued a ticket at school by law enforcement or any other citation that does not result in the child being detained.	(A)(i) NO. (A)(ii) Not applicable.	(B)(i) YES. (B)(ii) As soon as possible, but no later than 24 hours after the CPA becomes aware of it. [Medium]	(C)(i) NO. (C)(ii) Not applicable.
(8) The unauthorized absence of a child who is developmentally or chronologically under 6 years old.	(A)(i) YES. (A)(ii) Within 2 hours of notifying law enforcement. [Medium-High]	(B)(i) YES. (B)(ii) Within 2 hours of notifying law enforcement. [Medium]	(C)(i) YES. (C)(ii) Immediately upon determining the child is not on the premises and the child is still missing. [Medium-High]

Serious Incident	(i) To Child Care Regulation? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law Enforcement? (ii) If so, when?
(9) The unauthorized absence of a child who is developmentally or chronologically 6 to 12 years old.	(A)(i) YES. (A)(ii) Within 2 hours of notifying law enforcement, if the child is still missing. [Medium-High]	(B)(i) YES. (B)(ii) Within 2 hours of determining the child is not on the premises, if the child is still missing. [Medium]	(C)(i) YES. (C)(ii) Within 2 hours of determining the child is not on the premises, if the child is still missing. [Medium-High]
(10) The unauthorized absence of a child who is 13 years or older.	(A)(i) YES. (A)(ii) No later than 6 hours from when the child's absence is discovered and the child is still missing. However, the CPA must report the child's absence immediately if the child has previously been alleged or determined to be a trafficking victim, or the CPA believes the child has been abducted or has no intention of turning to the foster home. [Medium]	(B)(i) YES. (B)(ii) No later than 6 hours from when the child's absence is discovered and the child is still missing. However, the CPA must report the child's absence immediately if the child has previously been alleged or determined to be a trafficking victim, or the CPA believes the child has been abducted or has no intention of returning to the foster home. [Medium]	(C)(i) YES. (C)(ii) No later than 6 hours from when the child's absence is discovered and the child is still missing. However, the CPA must report the child's absence immediately if the child has previously been alleged or determined to be a trafficking victim, or the CPA believes the child has been abducted or has no intention of returning to the foster home. [Medium]

Serious Incident	(i) To Child Care Regulation? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law Enforcement? (ii) If so, when?
(11) A child in the CPA's care contracts a communicable disease that the law requires the CPA to report to the Texas Department of State Health Services (DSHS) as specified in 25 TAC 97, Subchapter A, (relating to Control of Communicable Diseases).	(A)(i) YES, unless the information is confidential. (A)(ii) As soon as possible, but no later than 24 hours after the CPA becomes aware of the communicable disease. [Medium]	(B)(i) YES, if their child has contracted the communicable disease or has been exposed to it. (B)(ii) As soon as possible, but no later than 24 hours after the CPA becomes aware of the communicable disease. [Medium]	(C)(i) NO. (C)(ii) Not applicable.
(12) A suicide attempt by a child.	(A)(i) YES. (A)(ii) As soon as the CPA becomes aware of the incident. [Medium-High]	(B)(i) YES. (B)(ii) Immediately after ensuring the safety of the child. [Medium]	(C)(i) NO. (C)(ii) Not applicable.

(b) If there is a medically pertinent incident that does not rise to the level of a serious incident, a CPA does not have to report the incident but the CPA must document the incident in the same manner as for a serious incident, as described in §749.511 of this division (relating to How must I document a serious incident?). [Medium].

(c) If a child returns before the required reporting timeframe outlined in (a)(8) - (10) in Figure: 26 TAC §749.503(a), the CPA is not required to report the absence as a serious incident. Instead, the CPA must document within 24 hours after the CPA becomes aware of the unauthorized absence in the same manner as for a serious incident, as described in §749.511 of this division. [Medium]

(d) If there is a serious incident involving an allegation of abuse, neglect, or exploitation of an elderly adult or an adult with a disability in a residential child-care operation, the CPA must document the incident in the same manner as a serious incident. The CPA must also report the incident to: [Medium]

(1) The Department of Family and Protective Services intake through:
  (A) The Texas Abuse and Neglect Hotline (1-800-252-5400); or
  (B) Online at https://www.txabusehotline.org;
(2) Law enforcement, if there is a fatality; and
(3) The parent, if the adult resident is not capable of making decisions about the resident's own care.

(e) A CPA must report and document the following types of serious incidents involving the CPA, one of its foster homes, an employee, professional level service provider, contract staff, or a volunteer to the following entities within the specified timeframe:

Figure: 26 TAC §749.503(e)

Serious Incident	(i) To Child Care Regulation? (ii) If so, when?	(i) To Parents? (ii) If so, when?
(1) Any incident that renders all or part of the CPA unsafe or unsanitary for a child, such as a fire or a flood.	(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after the incident. [Medium]	(B)(i) YES (B)(ii) As soon as possible, but no later than 24 hours after the incident. [Medium]
(2) A disaster or emergency that requires a foster home to close.	(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after the incident. [Medium]	(B)(i) YES (B)(ii) As soon as possible, but no later than 24 hours after the incident. [Medium]

Serious Incident	(i) To Child Care Regulation? (ii) If so, when?	(i) To Parents? (ii) If so, when?
(3) The CPA must temporarily do the following to comply with a declared state of disaster under Chapter 418, Government Code: • Move the CPA to a new location that is not noted on the CPA's permit; • Move a foster home to a new location that is not noted on the verification; • Allow a foster home to provide care to any child at a location not noted on the verification (for example providing care to children that need to be quarantined at a different location from other children in the foster home noted on the verification).	(A)(i) YES. (A)(ii) As soon as possible, but no later than 24 hours after: • The CPA temporarily moves to a new location that is not noted on the permit; • A foster home temporarily moves to a new location that is not noted on the verification; or • A foster home temporarily provides care to any child at a location not noted on the verification. [Medium-High]	(B)(i) YES. (B)(ii) As soon as possible, but no later than 24 hours after: • The CPA temporarily moves to a new location that is not noted on the CPA's permit; • A foster home temporarily moves to a new location that is not noted on the verification; or • A foster home temporarily provides care to any child at a location not noted on the verification. [Medium-High]
(4) An adult who has contact with a child in care contracts a communicable disease noted in 25 TAC Chapter 97, Subchapter A, (relating to Control of Communicable Diseases).	(A)(i) YES, unless the information is confidential. (A)(ii) As soon as possible, but no later than 24 hours after the CPA becomes aware of the communicable disease. [Medium]	(B)(i) YES, if their child has contracted the communicable disease or has been exposed to it. (B)(ii) As soon as possible, but no later than 24 hours after the CPA becomes aware of the communicable disease. [Medium]

Serious Incident	(i) To Child Care Regulation? (ii) If so, when?	(i) To Parents? (ii) If so, when?
(5) An allegation that a person under the auspices of the CPA who directly cares for or has access to a child in the setting has abused drugs within the past seven days.	(A)(i) YES. (A)(ii) Within 24 hours after learning of the allegation. [Medium]	(B)(i) NO. (B)(ii) Not applicable.
(6) An investigation of abuse or neglect by an entity (other than the Texas Department of Family and Protective Services Child Care Investigations division) of an employee, professional level service provider, foster parent, contract staff, volunteer, or other adult at the agency.	(A)(i) YES. (A)(ii) As soon as possible, but no later than 24 hours after the CPA becomes aware of the investigation. [Medium]	(B)(i) NO. (B)(ii) Not applicable.
(7) Any of the following relating to an employee, professional level service provider, foster parent, contract staff, volunteer, or other adult at the agency alleging commission of any crime as provided in §745.661 of this title (relating to What types of criminal convictions may affect a subject's ability to be present at an operation?): • An arrest; • An indictment; • Information regarding an official complaint accepted by a county or district attorney; or • An arrest warrant executed by law enforcement.	(A)(i) YES. (A)(ii) As soon as the CPA becomes aware of the situation. [Medium]	(B)(i) NO. (B)(ii) Not applicable.

Serious Incident	(i) To Child Care Regulation? (ii) If so, when?	(i) To Parents? (ii) If so, when?
(8) A search warrant is executed by law enforcement at the CPA or a foster home.	(A)(i) YES. (A)(ii) As soon as the CPA becomes aware of the situation. [Medium]	(B)(i) NO. (B)(ii) Not applicable.
(9) An allegation that an employee or caregiver: • Used a prohibited emergency behavior intervention technique, as outlined in §749.2051(b) of this chapter (relating to What types of emergency behavior intervention may I administer?); • Used a prohibited personal restraint technique, as outlined in §749.2205 of this chapter (relating to What personal restraint techniques are prohibited?); or • Used an emergency behavior intervention inappropriately, as outlined in §749.2063 of this chapter (relating to Are there any purposes for which emergency behavior intervention cannot be used?) or §749.2281 of this chapter (relating to What is the maximum length of time that an emergency behavior intervention can be administered to a child?).	(A)(i) YES. (A)(ii) As soon as possible but no later than 24 hours after the CPA becomes aware of the incident. [Medium]	(B)(i) YES. (B)(ii) As soon as possible but no later than 24 hours after the CPA becomes aware of the incident. [Medium]

Technical Assistance
Regarding subsection (a)(2), not every trip to a hospital or emergency clinic must be reported as a serious incident. Only those incidents involving a "substantial physical injury or critical illness" must be reported and documented as a serious incident. The definition of "substantial physical injury" contains some examples of reportable serious incidents. Visits to the emergency room or emergency clinic (that did not result in hospitalization) for a common illness such as the flu, for a chronic illness such as an asthma attack, or for a routine medical exam would not warrant reporting as a serious incident. Also, it is the nature of the injury or illness that determines whether it is reportable as a serious incident, not the venue in which it is treated. Taking a child to the emergency clinic or doctor's office for stitches is still reportable as a serious incident, even though the treatment did not occur at an emergency room or hospital. Regarding children receiving treatment services for primary medical needs, planned admissions to the hospital are not reportable as serious incidents. If the child sustains a substantial physical injury or contracts a critical illness, a serious incident report is required. However, ongoing treatment for the child's chronic illnesses or conditions is not reportable as a serious incident. In addition, admission to a psychiatric hospital only warrants a serious incident report if the admission is precipitated by a reportable incident, such as a suicide attempt. The admission itself is not reportable as a serious incident. Regarding paragraph (e)(3), a disaster may be declared by the governor or the presiding officer of the governing body of a political subdivision. The operation or foster home must be located in the area impacted by the declared disaster before paragraph (e)(3) applies. Regarding subsection (e)(7), see the Citizen's Guide for the Texas Criminal Justice Process for more information on criminal matters.

§749.505. What constitutes a suicide attempt by a child?

Subchapter D, Reports and Record Keeping

Division 1, Reporting Serious Incidents and Other Occurrences

September 2010

A suicide attempt is a child's attempt to take his own life using means or methods for causing his death, including any act a child commits intending to cause his death, but excluding suicidal gestures where it is clear that the act was unlikely to cause death. Suicidal thoughts are not reportable as a suicide attempt.

§749.509. How do I make a report of a serious incident or occurrence to Licensing?

Subchapter D, Reports and Record Keeping

Division 1, Reporting Serious Incidents and Other Occurrences

January 2017

(a) All serious incident reports must be made directly to the Texas Abuse and Neglect Hotline [Medium].

(b) Foster parents must report any serious incidents directly to the Texas Abuse and Neglect Hotline if the incident involves a child under the care of the foster parent [Medium].

§749.511. How must I document a serious incident?

Subchapter D, Reports and Record Keeping

Division 1, Reporting Serious Incidents and Other Occurrences

April 2022

A serious incident must be documented in a written report that includes the following information [Medium]:

(1) The name of the foster home or adoptive home, physical address, and telephone number [Medium];

(2) The time and date of the incident [Medium];

(3) The name, age, gender, and date of admission of the child or children involved [Medium];

(4) The names of all adults involved and their role in relation to the child(ren) [Medium];

(5) The names or other means of identifying witnesses to the incident, if any [Medium];

(6) The nature of the incident [Medium];

(7) The circumstances surrounding the incident [Medium];

(8) Interventions made during and after the incident, such as medical interventions, contacts made, and other follow-up actions [Medium];

(9) The treating licensed health-care professional's name, findings, and treatment, if any [Medium]; and

(10) The resolution of the incident [Medium]; and

(11) If the child returns to the operation after you complete the report for an unauthorized absence, an update regarding the unauthorized absence and the child's return. [Medium]

Technical Assistance
Regarding subsection (3), this requirement is not intended to conflict with confidentiality laws or rights. Identifying information for one child should not be placed in the record of another child. You may choose to 1) write one incident report that is filed centrally (not in each child's record) and de-identified when released as part of a child's record, 2) write one incident report that is filed in each child's record, with each copy de-identified to not show the full name of other children involved in the incident, or 3) write a separate incident report for each child, with only the first name or initials of each other child involved. Regarding subsection (5), witnesses to the incident are persons who were present when the incident occurred and can give a first-hand account of what they experienced during the incident. A person is not automatically a witness because he lives in the same unit or cottage as the child involved in the incident. Witnesses may also be persons unaffiliated with the operation, such as a visitor to the operation who was present at the time of the incident.

§749.513. What additional documentation must I include with a written serious incident report?

Subchapter D, Reports and Record Keeping

Division 1, Reporting Serious Incidents and Other Occurrences

June 2020

You must include the following additional documentation with a written serious incident report, as applicable:

Weight	Serious Incident	Documentation
[Medium]	(1) Child death, substantial physical injury, or a suicide attempt reportable under §749.503(a)(1), (2), and (11) of this division (relating to When must I report and document a serious incident?).	Any emergency behavior interventions implemented on the child within 48 hours prior to the serious incident.

Weight	Serious Incident	Documentation
[Medium-High]	(2) Any substantial physical injury reportable under §749.503(a)(2) of this division that resulted from a short personal restraint.	Documentation of the short personal restraint, including the precipitating circumstances and specific behaviors that led to the emergency behavior intervention.
[Medium]	(3) Unauthorized absence of a child.	(A) Any efforts made to locate the child; (B) The date and time you notified the parent(s) and the appropriate law enforcement agency and the names of the persons with whom you spoke regarding the child's absence and subsequent location or return to the foster home; (C) If the parent cannot be located, dates and times of all efforts made to notify the parent regarding the child's absence and subsequent location or return to the foster home; (D) Whether the child has returned to the foster home, and if so, the length of time the child was gone from the foster home; and (E) If the child returns to the foster home after 24 hours, an addendum to the report that document's the child's return.
[Medium]	(4) Any physical or sexual abuse committed by a child against another child reportable under §749.503(a)(4) or (5) of this division.	The difference in size, age, and developmental level of the children involved in the physical or sexual abuse.

§749.515. How long must I keep my incident reports?

Subchapter D, Reports and Record Keeping

Division 1, Reporting Serious Incidents and Other Occurrences

January 2017

You must keep a copy of the incident reports on file for two years. The reports must be easily accessible to Licensing upon request [Medium-Low].

§749.517. What are the notification requirements when Licensing finds my operation deficient in a standard related to safe sleeping or the abuse, neglect, or exploitation of a child?

Subchapter D, Reports and Record Keeping

Division 1, Reporting Serious Incidents and Other Occurrences

April 2021

(a) You must notify the parent of each child in the care of each foster home verified by your Child-Placing Agency of a deficiency in:

(1) A safe sleeping standard noted in subsection (b) of this section [Medium-High]; or

(2) The abuse, neglect, or exploitation standard in §749.1003(b)(1)(B) of this chapter (relating to What rights does a child in care have?). [Medium-High]

(b) The following are safe sleeping standards requiring notification:

(1) §749.1807(a)(1) of this chapter (relating to What specific safety requirements must my cribs meet?);

(2) §749.1809(2)(A) of this chapter (relating to Are mesh cribs or port-a-cribs allowed?);

(3) §749.1813(a)(5) and (b) of this chapter (relating to What types of equipment may a foster home not use with infants?);

(4) §749.1815 of this chapter (relating to What are the specific sleeping requirements for infants?);

(5) §749.1817 of this chapter (relating to May I allow an infant to sleep in a restrictive device?); and

(6) §749.1821 of this chapter (relating to May I swaddle an infant to help the infant sleep?).

(c) When meeting the notice requirements in subsection (a), your main office or a branch office must notify the parents of children in the care of each foster home that the office supervises.

§749.519. How must I notify parents of a safe sleeping deficiency or an abuse, neglect, or exploitation deficiency?

Subchapter D, Reports and Record Keeping

Division 1, Reporting Serious Incidents and Other Occurrences

April 2021

(a) Within five days after you receive notification of a deficiency described in §749.517 of this division (relating to What are the notification requirements when Licensing finds my operation deficient in a standard related to safe sleeping or the abuse, neglect, or exploitation of a child in care?), you must notify the parents of each child in the care of each foster home verified by your Child-Placing Agency at the time of notification, including a child who may not have been in care on the day of the actual incident. [Medium-High]

(b) When meeting the notice requirements in subsection (a), your main office or a branch office must notify the parents of children in the care of each foster home that the office supervises. [Medium-High]

(c) If the deficiency is for a safe sleeping standard, you must notify the parents using Form 2970, *Notification of Safe Sleeping Deficiency*, located on the Licensing provider website. [Medium]

(d) If the deficiency is for the standard related to the abuse, neglect, or exploitation of a child in care, you must notify the parents using Form 7266, *Notification of Abuse/Neglect/Exploitation Deficiency*, located on the Licensing provider website. [Medium]

(e) You must maintain and make available for our review, upon request, proof that you have notified parents in writing of deficiencies in safe sleeping and abuse, neglect, or exploitation, as required by subsection (a) of this section. [Medium-High]

Technical Assistance
• Regarding paragraphs (a) and (b), "parent" refers to a person who has legal responsibility for a child, as defined in 749.43(44) of this chapter (relating to What do certain words and terms mean in this chapter?). For example, if a child is in the conservatorship of DFPS, you must notify the child's DFPS caseworker. • Regarding paragraph (e), you may maintain the documentation in a manner that is consistent with your policies for record keeping, as long as you can verify that you have notified each parent as required. Possible ways to maintain proof of notification include: o Keeping a copy of the notification in each child's individual file; o Keeping a single file of all notifications, with a list of the parents whom you notified attached to each notification form; or o Maintaining a copy of any notification sent to a parent electronically, including the date and address to which you sent the notification.

Division 2, Operation Records

§749.529. What are the retention requirements for my agency's policies?

Subchapter D, Reports and Record Keeping

Division 2, Operation Records

January 2017

(a) You must maintain a copy of your policies and procedures at the agency. They must be available for review by employees, contract staff, caregivers, Licensing, or your clients, upon request [Medium-Low].

(b) You must maintain copies of all current and previous policies for at least two years [Low].

§749.531. What policies and procedures must I have for protecting records?

Subchapter D, Reports and Record Keeping

Division 2, Operation Records

January 2017

You must have policies and procedures for:

(1) Protecting paper and electronic records from destruction and loss [Medium-Low]; and

(2) Clarifying the persons:

(A) Within your agency who are authorized to access records [Medium-Low]; and

(B) Outside of your agency who are authorized by law to have access to records [Medium-Low].

§749.533. What additional policies and procedures must I have for electronic records?

Subchapter D, Reports and Record Keeping

Division 2, Operation Records

January 2017

If you keep electronic records, you must develop policies and procedures in addition to the requirements in §749.531 of this title (relating to What policies and procedures must I have for protecting records?) [Medium-Low]. These policies and procedures must address:

(1) What records must be in the external paper file and what records can be stored in the electronic file [Medium-Low];

(2) Computer security systems, including confidentiality, passwords, and employee procedures to ensure the security of the system [Medium-Low];

(3) Requirements for routine back-up of data [Medium-Low];

(4) Anti-virus protection systems [Medium-Low]; and

(5) Limit access to your electronic files to persons within your agency authorized to see specific information in an electronic file [Medium-Low].

§749.534. Are electronic signatures allowed?

Subchapter D, Reports and Record Keeping

Division 2, Operation Records

January 2017

Yes, you may use electronic and digital signatures, including approvals by e-mail and electronic approvals.

§749.535. How current must a record be?

Subchapter D, Reports and Record Keeping

Division 2, Operation Records

January 2017

(a) All documentation must be in the record:

(1) No later than 30 days after the occurrence or event [Low]; or

(2) As otherwise specified in this chapter [Low].

(b) Foster parents must submit copies of any records they keep. They must submit them within 15 days from the end of the month. You must file these records in the child's record [Low].

§749.537. Must I make records available for Licensing to review?

Subchapter D, Reports and Record Keeping

Division 2, Operation Records

January 2007

(a) You must make all active records available for our immediate review and reproduction [Medium].

(b) You must make all archived records available for our review and reproduction within 48 hours [Medium-Low].

(c) We must have reasonable access to your storage and file areas in order to monitor your record keeping [Medium-Low].

§749.539. Where must I maintain foster home disaster and emergency plans?

Subchapter D, Reports and Record Keeping

Division 2, Operation Records

January 2017

You must maintain a copy of each current foster home disaster and emergency plan at the main office, the relevant branch office, or in a central administratively designated location [Medium-High].

Division 3, Personnel Records

§749.551. Where must I maintain personnel records?

Subchapter D, Reports and Record Keeping

Division 3, Personnel Records

January 2017

(a) You must maintain all active personnel records at the main office or keep individual personnel records at the office where each person is working [Medium-Low].

(b) You must maintain archived personnel records at the main office, the relevant branch office, and/or in a central administratively designated location [Low].

(c) You may archive entire closed personnel records electronically.

(d) Your system for maintaining all personnel records must be uniform throughout the agency [Low].

(e) You must maintain in the main office of the agency a master list of active and archived personnel records with a notation of the location of those records [Low].

§749.553. What information must the personnel record of an employee include?

Subchapter D, Reports and Record Keeping

Division 3, Personnel Records

January 2017

For each employee, excluding foster parents, the personnel record must include:

(1) Documentation showing the date of employment [Medium-Low];

(2) Documentation showing how the person meets the minimum age and qualifications for the position [Medium-Low];

(3) A current job description [Medium-Low];

(4) Evidence of any valid professional licensures, certifications, or registrations the person must have to meet qualifications for the position, such as a current renewal card or a letter from the credentialing entity verifying that the person has met the required renewal criteria [Medium];

(5) A copy of the record of tuberculosis screening conducted prior to the person having contact with children in care showing that the employee is free of contagious tuberculosis as provided in §749.1417 of this title (relating to Who must have a tuberculosis (TB) examination?) [Medium];

(6) A notarized Licensing *Affidavit for Applicants for Employment* form as specified in Human Resources Code, §42.059 [Medium];

(7) A statement signed and dated by the employee documenting that the employee has read a copy of the operational policies required by §749.103 of this title (relating to What policies and procedures must I submit for Licensing's approval as part of the application process?) [Medium-Low];

(8) A statement signed and dated by the employee indicating the employee must immediately report any suspected incident of child abuse, neglect, or exploitation to the Texas Abuse and Neglect Hotline and the agency's administrator or administrator's designee [Medium];

(9) Proof of request for background checks required by Chapter 745, Subchapter F of this title (relating to Background Checks) [High];

(10) For each person who transports a child, a copy of:

(A) The person's valid driver's license; or

(B) A driver's license check conducted through the Texas Department of Public Safety within the last 12 months [Medium];

(11) A record of training, including the date of the training, the number of training hours, and the curriculum covered [Medium-Low];

(12) Include any documentation of the person's tenure with the agency [Medium-Low]; and

(13) The date and reason for the person's separation, if applicable [Medium-Low].

§749.554. What information regarding personnel must be kept confidential?

Subchapter D, Reports and Record Keeping

Division 3, Personnel Records

September 2010

All background check results must be kept confidential, in accordance with Human Resources Code §40.005, (d) and (e). Background check results must be protected from unauthorized access or release [Low].

§749.555. How long must I maintain personnel records?

Subchapter D, Reports and Record Keeping

Division 3, Personnel Records

January 2007

(a) You must maintain annual training records for current personnel for the last full training year and current training year [Low].

(b) With the exception of subsection (a) of this section, you must keep personnel records for a year after an employee's last day on the job, or until any investigation involving the employee is resolved, whichever is longer [Low].

Division 4, Client Records

§749.571. What client records must I maintain?

Subchapter D, Reports and Record Keeping

Division 4, Client Records

January 2017

You must maintain master records for all clients. The records must be individualized, current, and complete. The master record may include electronic records [Medium].

§749.573. Where must I maintain active master records for clients?

Subchapter D, Reports and Record Keeping

Division 4, Client Records

January 2017

(a) You must maintain the active master case record for a child at the office where the child placement staff that is managing the child's placement is located [Medium-Low].

(b) You must maintain the active master record for a foster or adoptive home at the office where the child placement staff that is managing the home is located [Low].

(c) You must maintain a master list of active client records with a notation of the location of those records in the main office of the agency [Low].

§749.575. What is an active record for a child?

Subchapter D, Reports and Record Keeping

Division 4, Client Records

January 2007

An active child record consists of the child's record for the most recent 12 months of service [Medium].

§749.577. What information must an active child record include?

Subchapter D, Reports and Record Keeping

Division 4, Client Records

January 2017

For each child, the active record must include:

(1) The child's full name and another method of identifying the child, such as a client number [Medium]; and

(2) Documentation of known allergies and chronic conditions on the exterior of the child's record or in another place where the information is clearly visible to persons with access to the record, including a notation of "no known allergies" when applicable [Medium-High].

§749.579. How must I maintain an active child record?

Subchapter D, Reports and Record Keeping

Division 4, Client Records

January 2007

On an on-going basis, you must ensure that each child's record is:

(1) Kept accurate and current [Medium];

(2) Locked and kept in a safe location or locations [Medium]; and

(3) Kept confidential as required by law [Medium].

§749.581. Where must I maintain archived master records for clients?

Subchapter D, Reports and Record Keeping

Division 4, Client Records

January 2017

(a) You must maintain archived client records at the main office, the branch office that served the client, and/or in a central administratively designated location [Low].

(b) You may archive entire closed client records electronically.

(c) Your system for maintaining all client records must be uniform throughout the agency [Low].

(d) You must maintain a master list of archived client records with a notation of the location of those records in the main office of the agency [Low].

§749.583. Who must consent to the release of a child's record?

Subchapter D, Reports and Record Keeping

Division 4, Client Records

January 2007

Unless you are releasing information to a parent, to us, or as required by law, you may not release any portion of a child's record to any agency, organization, or individual without the written consent of the person legally authorized to consent to the release [Medium-Low].

§749.585. How long must I maintain client records?

Subchapter D, Reports and Record Keeping

Division 4, Client Records

January 2017

(a) For children placed in adoption, you must maintain complete child, birth parent, and adoptive family records permanently or transfer them, as appropriate, to the Bureau of Vital Statistics [Medium-Low].

(b) You must maintain a foster child's complete record from admittance to discharge for two years from the date of discharge, or until the resolution of any investigation involving the child, whichever is longer [Medium-Low].

(c) You must maintain records for verified foster homes for at least five years after the foster home is closed. This includes foster homes that did not receive placements [Low].

(d) You must maintain records for approved adoptive applicants with whom you did not place a child for at least five years after the family withdraws or you close consideration of the family for a placement [Low].

(e) You must maintain records for applicants for foster or adoptive homes whom you did not verify or approve for at least one year after denial of the application [Low].

(f) You do not have to maintain records of foster or adoptive home applicants who drop out before the completion of a home screening.

§749.587. How must I handle adoption records if I cease operating?

Subchapter D, Reports and Record Keeping

Division 4, Client Records

September 2010

(a) If you cease operating, you must transfer adoption records to [Low]:

(1) The Department of State Health Services, Bureau of Vital Statistics, and provide written notification to Licensing of the transfer; or

(2) Another licensed child-placing agency. If you transfer your records to another child-placing agency, you must inform the Bureau of Vital Statistics, in writing, of the closing and of the location of the adoption records. You must send a copy of the letter you send to the Bureau of Vital Statistics to the local Licensing office.

(b) You must transfer the records within the time frame specified by the Bureau of Vital Statistics [Low].

Division 5, Unauthorized Absences

§749.590. What additional requirements are there for unauthorized absences of children from a foster home?

Subchapter D, Reports and Record Keeping

Division 5, Unauthorized Absences

June 2020

(a) For each unauthorized absence of a child, you must:

(1) Document the unauthorized absence in an annual summary log, as required by §749.591 of this division (relating to What documentation must be included in an annual summary log for a child who has an unauthorized absence?); and

(2) Debrief the child, as required by §749.592 of this division (relating to What are the requirements for debriefing a child after an unauthorized absence?).

§749.591. What documentation must be included in an annual summary log for a child who has an unauthorized absence?

Subchapter D, Reports and Record Keeping

Division 5, Unauthorized Absences

June 2020

(a) For each unauthorized absence during the relevant year, you must document the following information in an annual summary log:

(1) The name, age, gender, and date of admission of the child who was absent [Medium];

(2) The time and date the unauthorized absence was discovered [Medium];

(3) How long the child was gone or if the child did not return [Medium];

(4) The name of the caregiver responsible for the child at the time the child's absence was discovered [Medium];

(5) The intake report number, if a report was made to Licensing or the Department of Family and Protective Services [Medium]; and

(6) Whether law enforcement was contacted, including the name of any law enforcement agency that was contacted and the number of the police report, if applicable [Medium].

(b) You must maintain each annual summary log for five years [Medium].

(c) You must make the annual summary logs available to Licensing for review and reproduction, upon request [Medium].

§749.592. What are the requirements for debriefing a child after an unauthorized absence?

Subchapter D, Reports and Record Keeping

Division 5, Unauthorized Absences

June 2020

(a) After a child returns to the foster home from an unauthorized absence, the foster parent, or other appropriate person, must conduct a debriefing with the child as soon as possible, but no later than 24 hours after the child's return [Medium-High]. The purpose of the debriefing is for the child and the foster parent, or other appropriate person, to discuss the following:

(1) The circumstances that led to the child's unauthorized absence [Medium];

(2) The trauma informed strategies the child can use to avoid future unauthorized absences and how the foster parent can support those strategies [Medium];

(3) The child's condition [Medium]; and

(4) What occurred while the child was away from the foster home, including where the child went, who was with the child, the child's activities, and any other information that may be relevant to the child's health and safety [Medium].

(b) The foster parent must allow the child to return to routine activities, excluding any activity that the foster parent determines would be inappropriate because of the child's condition following the unauthorized absence or something that occurred during the unauthorized absence [Medium].

(c) The debriefing must be documented in the child's record, including any routine activity that would be inappropriate for the child to return to and the explanation for why the activity is inappropriate [Medium].

Technical Assistance
• While debriefing a child of any age, a foster parent or other person conducting the debriefing should respect the wishes of the child and allow the child to decline the debriefing or to ask for a different person to conduct the debriefing. • Regarding Paragraph (a)(4), if a child discloses that abuse or neglect may have occurred during an unauthorized absence, the foster parent or other person conducting the debriefing must make a report the Department of Family and Protective Services and should not ask any additional questions regarding the abuse or neglect. The foster parent or other person conducting the debriefing must complete the remaining requirements of the debriefing

§749.593. When must a triggered review of a child's unauthorized absences occur?

Subchapter D, Reports and Record Keeping

Division 5, Unauthorized Absences

June 2020

(a) A triggered review of a child's unauthorized absences must occur as soon as possible, but no later than 30 days after the child's third unauthorized absence within a 60-day timeframe [Medium-High].

(b) A regularly scheduled review of the child's service plan can serve as the triggered review of a child's unauthorized absences, if the regularly scheduled review [Medium-High]:

(1) Meets the requirements in §749.595 of this division (relating to What must the triggered review of a child's unauthorized absences include?); and

(2) Takes place no later than 30 days after the child's third unauthorized absence within a 60-day timeframe.

§749.594. Who must participate in a triggered review of a child's unauthorized absences?

Subchapter D, Reports and Record Keeping

Division 5, Unauthorized Absences

June 2020

(a) The triggered review of a child's unauthorized absences must include the following participants [Medium-High]:

(1) The child;

(2) The foster parent; and

(3) Child placement staff.

(b) You must notify the child's parent at least two weeks before the triggered review of a child's unauthorized absences, so the parent will have an opportunity to participate in the review [Medium-High].

§749.595. What must a triggered review of a child's unauthorized absences include?

Subchapter D, Reports and Record Keeping

Division 5, Unauthorized Absences

June 2020

A triggered review of a child's unauthorized absences must include the following:

(1) A review of the child's records documenting previous unauthorized absences, including previous debriefings [Medium-High];

(2) A review of service plan elements identified in §749.1309(b)(1)(D) and (H) and, as applicable, §749.1309(b)(2) and (3) of this chapter (relating to What must a child's initial service plan include?) [Medium];

(3) An examination of trauma informed alternatives to minimize the unauthorized absences of the child [Medium-High]; and

(4) A written plan to reduce the unauthorized absences of the child, which you must document in the child's record [Medium-High].

§749.596. What is an overall agency evaluation for unauthorized absences?

Subchapter D, Reports and Record Keeping

Division 5, Unauthorized Absences

June 2020

(a) Every six months, you must conduct an overall agency evaluation for unauthorized absences that have occurred at your foster homes during that time period [Medium-Low].

(b) The objectives of the evaluation are to:

(1) Develop and maintain a trauma informed environment that supports positive and constructive behaviors by children in care [Medium]; and

(2) Ensure the overall safety and well-being of children in care [Medium].

(c) The evaluation must include:

(1) The frequency and patterns of unauthorized absences of children from your foster homes [Medium]; and

(2) Specific trauma informed strategies to reduce the number of unauthorized absences from your foster homes [Medium].

(d) You must maintain the results of each six-month overall agency evaluation for unauthorized absences for five years [Medium].

(e) You must make the results of each overall agency evaluation for unauthorized absences available to Licensing for review and reproduction, upon request [Medium].

Subchapter E, Agency Staff and Caregivers

Division 1, General Requirements

§749.603. Does education received outside of the United States count toward educational qualifications?

Subchapter E, Agency Staff and Caregivers

Division 1, General Requirements

January 2007

Yes, however you must provide supporting information indicating that the education is equivalent to the minimum educational qualifications for the position for which the person is applying. Documents written in a foreign language must be translated into English [Medium-Low].

§749.605. What minimum qualifications must all employees meet?

Subchapter E, Agency Staff and Caregivers

Division 1, General Requirements

January 2007

(a) An employee's behavior or health status must not present a danger to children in care [Medium-High].

(b) Each employee who is regularly or frequently present while children are in care must:

(1) Meet the requirements in Subchapter F of Chapter 745 of this title (relating to Background Checks) [High];

(2) Have a record of a tuberculosis screening, showing the employee is free of contagious TB as provided in §749.1417 of this title (relating to Who must have a tuberculosis (TB) examination?) [Medium];

(3) Be physically, mentally, and emotionally capable of performing assigned tasks and must have the skills necessary to perform assigned tasks [Medium]; and

(4) Complete a notarized Licensing Affidavit for Applicants for Employment form, as specified in Human Resources Code, §42.059 [Medium].

§749.607. What general responsibilities do all employees and caregivers have?

Subchapter E, Agency Staff and Caregivers

Division 1, General Requirements

September 2010

Regardless of whether the employee or caregiver is counted in the child/caregiver ratio, each employee or caregiver must:

(1) In the absence of a more specific rule requirement, demonstrate competency, prudent judgment, and self-control in the presence of children and when performing assigned responsibilities [High];

(2) Report suspected abuse, neglect, and exploitation to the Child Abuse Hotline and to the designated administrator or supervisor [High]; and

(3) Know and comply with rules of this chapter, Chapter 42 of the Human Resources Code, Chapter 745 of this title (relating to Licensing), and any other laws which are relevant to the person's duties [Medium-High].

Technical Assistance
Regarding subsection (1), this is only cited by Licensing when a more specific rule requirement does not apply to the incident. For example, if a caregiver loses their temper and inappropriately disciplines a child in care, this would be cited using §748.2301(b), or another relevant standard in Subchapter M (relating to Discipline and Punishment). This subsection is not cited when a more specific rule is cited regarding the incident.

§749.609. What are the requirements for tuberculosis screening?

Subchapter E, Agency Staff and Caregivers

Division 1, General Requirements

January 2007

Before having contact with children in care, all caregivers, employees, contract staff, volunteers, foster home household members, and employees in foster homes must be screened for tuberculosis as provided in §749.1417 of this title (relating to Who must have a tuberculosis (TB) examination?) [Medium].

Division 2, Child-Placing Agency Administrator

§749.631. What qualifications must a child-placing agency administrator meet?

Subchapter E, Agency Staff and Caregivers

Division 2, Child-Placing Agency Administrator

September 2010

(a) A child-placing agency administrator must:

(1) Meet the qualifications established by the agency's governing body [Medium-Low];

(2) Be a Licensed Child-Placing Agency Administrator according to Chapter 43 of the Human Resources Code and Chapter 745, Subchapter N of this title (relating to Administrator's Licensing) [Medium];

(3) Be a full-time employee of the agency [Medium]; and

(4) Be present at a Texas office of the agency to provide on-site administrative oversight [Medium].

(b) If acting as the administrator for two residential child-care operations under §749.633 of this title (relating to Can a child-placing agency administrator be an administrator for two residential child-care operations?), the administrator must split a full-time schedule between the two operations as described in the professional staffing plans for each operation [Medium].

§749.633. Can a child-placing agency administrator be an administrator for two residential child-care operations?

Subchapter E, Agency Staff and Caregivers

Division 2, Child-Placing Agency Administrator

October 2023

A child-placing agency administrator can be an administrator for two residential child-care operations, including a general residential operation or residential treatment center, if:

(1) Both operations are in good standing with Licensing [Medium];

(2) The size and scope of the operations are manageable by one person, which is clarified in the written professional staffing plans [Medium];

(3) The person also holds a valid Child-Care Administrator License, if the second operation is a child-placing agency [Medium]; and

(4) At least one child-placing agency is managing 25 or fewer foster homes [Medium].

Technical Assistance
Regarding paragraph (3), a child-care administrator acting as an administrator for both a child-placing agency and a general residential operation must hold both a Full Child Placing Agency Administrator's License and a Full Child-Child Care Administrator's License as described in §745.8906. A Provisional Child-Care Administrator's License is not allowed in this scenario. This ensures that the administrator has the knowledge necessary to administer and manage two unique program types at the same time.

§749.635. What responsibilities must the child-placing agency administrator have?

Subchapter E, Agency Staff and Caregivers

Division 2, Child-Placing Agency Administrator

April 2022

The child-placing agency administrator must:

(1) Have daily supervision and overall administrative responsibility for all of your offices, including your main office and any branch offices [Medium];

(2) Ensure that the operation complies with current heightened monitoring plan(s), if applicable [Medium-High]; and

(3) Be responsible for or assign responsibility for:

(A) Administering and managing the agency according to your policies [Medium];

(B) Ensuring that the agency complies with applicable rules of this chapter, Chapter 42 of the Human Resources Code, Chapter 745 of this title (relating to Licensing), and other applicable laws [Medium];

(C) Personnel matters, including hiring, assigning duties, training, supervision, evaluation of employees, and terminations [Medium-High];

(D) Ensuring persons whose behavior or health status presents a danger to children are not allowed at the agency or foster homes [Medium-High]; and

(E) Administering and managing your approved agency plans as stated in §749.101(3) and (4) of this title (relating to What plans must I submit for Licensing's approval as part of the application process?) [Medium-High]. These plans:

(i) Evaluate the effectiveness of your system for meeting the rules of this chapter [Medium-High]; and

(ii) Ensure the investigation of reports of minimum standards violations, upon our request [Medium-High].

§749.637. Who must have overall administrative responsibility when the child- placing agency administrator is absent on a frequent and/or extended basis?

Subchapter E, Agency Staff and Caregivers

Division 2, Child-Placing Agency Administrator

January 2007

(a) The child-placing agency administrator must designate an employee to be responsible for the overall administration of the agency while the administrator is absent from the agency on a frequent and/or extended basis [Medium].

(b) The designee must be a Licensed Child-Placing Agency Administrator as required in Chapter 43 of the Human Resources Code [Medium].

Division 3, Child Placement Staff and Child Placement Management Staff

§749.661. What employees must my agency have to perform child placement activities?

Subchapter E, Agency Staff and Caregivers

Division 3, Child Placement Staff and Child Placement Management Staff

January 2007

Your agency must have the following employees identified:

(1) Child placement staff [Medium]; and

(2) Child placement management staff [Medium].

§749.663. What are the responsibilities of child placement staff?

Subchapter E, Agency Staff and Caregivers

Division 3, Child Placement Staff and Child Placement Management Staff

January 2017

(a) Child placement staff providing foster care services are responsible for:

(1) Deciding whether to admit a child for placement, including completion of an admission assessment and any other evaluation of a child for placement [Medium];

(2) Placing a child into a foster home or other substitute living arrangement [Medium];

(3) Managing the case of a child [Medium-High], including:

(A) Developing and updating of service plans [Medium];

(B) Maintaining direct contact with the child and the foster parents or other caregivers [Medium]; and

(C) Performing any additional case management activities, including conducting and documenting supervisory visits for compliance with §749.2815 of this title (relating to How often must I have supervisory visits with the foster home and what must be evaluated during a supervisory visit?) [Medium-Low];

(4) Orientation, assessment, and verification of foster parents [Medium]; and

(5) Monitoring and providing support services to foster parents, including the initiation of development plans, corrective actions, or adverse actions [Medium-High].

(b) Child placement staff providing adoption services are responsible for:

(1) Deciding whether to admit a child for placement [Medium];

(2) Placing a child into a foster home, adoptive home, or other substitute living arrangement [Medium];

(3) Managing the case of a child [Medium-High], including:

(A) Developing and updating of service plans [Medium];

(B) Maintaining direct contact with the child and the foster parents, adoptive parents, or other caregivers [Medium]; and

(C) Performing any additional case management activities [Medium-Low];

(4) Case management and service delivery to birth parents [Medium-Low]; and

(5) Orientation, assessment, and approval of adoptive parents [Medium-High].

§749.667. What are the responsibilities of child placement management staff?

Subchapter E, Agency Staff and Caregivers

Division 3, Child Placement Staff and Child Placement Management Staff

January 2017

Child placement management staff must:

(1) Review and approve:

(A) All child placement activities, as outlined in §749.663 of this title (relating to What are the responsibilities of child placement staff?) [Medium];

(B) Documentation of supervisory visits for compliance with §749.2815 of this title (relating to How often must I have supervisory visits with the foster home and what must be evaluated during a supervisory visit?) [Medium-High];

(C) Investigation findings of minimum standards deficiencies that Licensing requested you conduct [Medium-High]; and

(D) Corrective and adverse action plans involving foster families [Medium-High]; and

(2) Supervise child placement staff, if any, including planning for the staff's professional development and taking any other appropriate action in regard to their child-placing decisions [Medium].

(3) Directly perform the responsibilities of the child placement staff, as appropriate (e.g. the child placement staff is absent or unavailable) [Medium-High].

§749.669. How do child placement management staff document approval?

Subchapter E, Agency Staff and Caregivers

Division 3, Child Placement Staff and Child Placement Management Staff

January 2017

Child placement management staff must review and approve by signing and dating the following documents:

(1) Assessment/admission forms [Medium];

(2) Initial and subsequent placement documents [Medium];

(3) Foster and adoptive home screenings [Medium-High];

(4) Investigation reports of minimum standards deficiencies that Licensing requested you conduct [Medium-High];

(5) Foster home development and/or corrective action plans [Medium-High];

(6) Initial and updated service plans [Medium];

(7) Discharge or transfer plans and summaries [Medium];

(8) Any restrictions you impose on the child:

(A) For more than 30 days that the treatment director or service planning team has not approved [Medium]; and

(B) That continues for more than 30 days and must be re-evaluated by the child placement management staff [Medium];

(9) Any restrictions to communication and visitation with family imposed on a child [Medium-Low];

(10) Any restrictions to a particular room or building for more than 24 hours imposed on a child [Medium]; and

(11) Child placement staff contacts with children per §749.1291 of this title (relating to What are the requirements for contact between child placement staff and children in foster care?) [Medium].

§749.673. What are the qualifications that an employee must have to perform child placement activities?

Subchapter E, Agency Staff and Caregivers

Division 3, Child Placement Staff and Child Placement Management Staff

January 2017

In addition to the requirements that all employees must meet, employees who perform child placement activities must meet the following qualifications [Medium]:

Options for Qualifications:	Educational Qualifications:	Professional Qualifications:
Option 1	(1) A master's degree from an accredited college or university; or (2) A bachelor's degree from an accredited college or university in social work or other human services field.	(A) One year of documented full-time work experience in a child-placing agency, in a residential child-care operation, or as a conservatorship caseworker or foster adoptive home development worker for the department. The experience must be in conducting assessments, service planning, or case management duties. The experience may include a maximum of 350 hours of formal, supervised field placement or practicum in child-placing activities; or (B) One year working under the direct supervision of child placement management staff. The direct supervision with the child placement management staff must consist of 10 documented, monthly, face-to-face, individual, case-related conferences over the year. The direct supervision must continue until the employee's previous experience and directly supervised experience totals one year.

Options for Qualifications:	Educational Qualifications:	Professional Qualifications:
Option 2	A bachelor's degree from an accredited college or university.	(A) Two years of documented full-time work experience in a child-placing agency, in a residential child-care operation, or as a conservatorship caseworker or foster adoptive home development worker for the department. The experience must be in conducting assessments, service planning, or case management duties. The experience may include a maximum of 350 hours of formal, supervised field placement or practicum in child-placing activities; or (B) Two years of working under the direct supervision of child placement management staff. The direct supervision with the child placement management staff must consist of 10 documented, monthly, face-to-face, individual, case-related conferences over each annual period. The direct supervision must continue until the employee's previous experience and directly supervised experience totals two years.

§749.675. What are the qualifications an employee must have to perform child placement management activities?

Subchapter E, Agency Staff and Caregivers

Division 3, Child Placement Staff and Child Placement Management Staff

April 2022

In addition to the requirements that all employees must meet, employees who perform child placement management activities must meet the following qualifications [Medium]:

Options for qualifications:	A license in social work or another human services field:	Educational qualifications:	Professional qualifications. Any field placement or practicum experience may not be counted:
Option 1	Yes	(A) A master's degree from an accredited college or university in social work or other human services field; and (B) Nine credit hours in graduate level courses that focus on family and individual function and interaction.	One year of documented full-time experience in a child-placing agency, in a residential child-care operation, or as a Child Protective Services caseworker for the Texas Department of Family and Protective Services (DFPS). The experience must be in conducting assessments, service planning, or case management duties.
Option 2	No	(1)(A) A master's degree from an accredited college or university; and (B) Nine credit hours in undergraduate or graduate level courses that focus on family and individual function and interaction; or (2)(A) A bachelor's degree from an accredited college or university in social work or other human services field; and (B) Nine credit hours in undergraduate or graduate level courses that focus on family and individual function and interaction.	Two years of documented full- time experience in a child-placing agency, in a residential child-care operation, or as a Child Protective Services caseworker for DFPS. The experience must be in conducting assessments, service planning, or case management duties.

Options for qualifications:	A license in social work or another human services field:	Educational qualifications:	Professional qualifications. Any field placement or practicum experience may not be counted:
Option 3	No	(A) A bachelor's degree from an accredited college or university; and (B) Nine credit hours in undergraduate or graduate level courses that focus on family and individual function and interaction.	Three years of documented full-time experience in a child-placing agency, in a residential child-care operation, or as a Child Protective Services caseworker for DFPS. The experience must be in conducting assessments, service planning, or case management duties.

§749.677. What are the requirements for child placement management staff at a branch office?

Subchapter E, Agency Staff and Caregivers

Division 3, Child Placement Staff and Child Placement Management Staff

January 2007

(a) You must have a child placement management staff assigned for each branch office to perform the child-placement activities [Medium].

(b) Your child placement management staff must have and document at least 10 monthly supervision conferences per year with a branch-office employee who performs child- placing activities [Medium].

(c) Employees performing child-placing activities must have reasonable access to their supervisor(s) [Medium-Low].

§749.679. What are the requirements for the caseloads of my child placement staff?

Subchapter E, Agency Staff and Caregivers

Division 3, Child Placement Staff and Child Placement Management Staff

January 2017

There are no caseload requirements for child placement staff; however, you must [Medium]:

(1) Maintain compliance with 749.305(a)(2) of this title (relating to What are the requirements for administrators and treatment directors for a main office and branch offices?), if applicable; and

(2) Ensure that all caseloads allow child placement staff to meet the needs of children in care and adequately support foster and adoptive homes.

Division 4, Treatment Director

§749.721. Must I have a treatment director?

Subchapter E, Agency Staff and Caregivers

Division 4, Treatment Director

January 2007

You must have a treatment director if you provide treatment services to 30 or more children at any one time, or to more than 50% of the children in your care. Your treatment director must be a full-time employee of your agency [Medium-High].

§749.723. What are the responsibilities of my treatment director?

Subchapter E, Agency Staff and Caregivers

Division 4, Treatment Director

January 2007

(a) Your treatment director:

(1) Is responsible for your overall treatment program, including clinical responsibility for the management of your agency's therapeutic interventions [Medium-High]; and

(2) Provides direction and overall management of your treatment program [Medium-High].

(b) When assigning responsibilities to your treatment director, you must ensure that the treatment director can oversee the treatment of all children receiving treatment services [Medium-High].

§749.725. What qualifications must a treatment director have?

Subchapter E, Agency Staff and Caregivers

Division 4, Treatment Director

January 2017

(a) A treatment director that provides or oversees treatment services for children with intellectual disabilities or children with autism spectrum disorder must be [Medium-High]:

(1) Licensed as a psychiatrist, psychologist, professional counselor, clinical social worker, marriage and family therapist, or registered nurse; or

(2) Certified by the Texas Education Agency as an education diagnostician, have a master's degree in special education or a human services field, and have three years of experience working with children with intellectual disabilities or autism spectrum disorder.

(b) A treatment director that provides or oversees treatment services for children with primary medical needs must be a physician or a licensed registered nurse [Medium-High].

(c) A treatment director that provides or oversees treatment services for children with emotional disorders must [Medium-High]:

(1) Be a psychiatrist or psychologist;

(2) Have a master's degree in a human services field from an accredited college or university and three years of experience providing treatment services for children with an emotional disorder, including one year in a residential setting; or

(3) Be a licensed master social worker, a licensed clinical social worker, a licensed professional counselor, or a licensed marriage and family therapist, and have three years of experience providing treatment services for children with an emotional disorder, including one year in a residential setting.

§749.727. If I provide more than one type of treatment service, can I have one treatment director?

Subchapter E, Agency Staff and Caregivers

Division 4, Treatment Director

January 2007

Yes, you can have one treatment director if he meets the required qualifications for the most prevalent treatment services your agency offers [Medium].

Technical Assistance
If you provide multiple treatment services, you may want to consider hiring more than one treatment director. Otherwise, your treatment director must either meet minimum qualifications for all treatment services that you provide or must meet minimum qualifications for your most prevalent treatment service. If there is no clear prevalence, you will need to base the qualifications for this position on the treatment service that your operation intends or predicts to be the most prevalent (and manage your admissions accordingly), or manage your admissions based on the qualifications of your treatment director.

Division 5, Treatment Services Provided by Nursing Professionals

§749.741. What treatment services must a registered nurse provide if I support a child with primary medical needs?

Subchapter E, Agency Staff and Caregivers

Division 5, Treatment Services Provided by Nursing Professionals

December 2014

A registered nurse must be on staff or on contract and must [Medium].

(1) Perform a nursing assessment of the child to include documentation of the child's diagnosed medical needs and selection of placement [Medium-High];

(2) Lead or participate in the service planning process for the child's care [Medium];

(3) Review medical records, including compliance with written physician orders [Medium];

(4) Contact other professionals, as needed, for the child's care [Medium];

(5) Monitor the implementation of the child's service plan [Medium]; and

(6) Document outcomes for interventions used in the child's care [Medium].

Division 6, Contract Staff and Volunteers

§749.761. What are the requirements for a volunteer?

Subchapter E, Agency Staff and Caregivers

Division 6, Contract Staff and Volunteers

April 2022

(a) You must maintain a personnel record for each volunteer [Medium-Low].

(b) The personnel record must include a statement signed and dated by the volunteer indicating the volunteer must immediately report any suspected incident of abuse, neglect, or exploitation to the Texas Abuse and Neglect Hotline and the agency's administrator or administrator's designee. An internal reporting policy may not require or allow a volunteer to delegate the person's responsibility or require a volunteer to obtain approval to report suspected abuse, neglect, or exploitation [Medium].

§749.763. Are there additional requirements for a volunteer or contractor that performs employee or caregiver functions?

Subchapter E, Agency Staff and Caregivers

Division 6, Contract Staff and Volunteers

January 2007

(a) A volunteer or contractor that performs any employee or caregiver function must meet the same requirements as an employee or caregiver who performs that function [Medium].

(b) You must maintain records documenting how these requirements are met [Medium].

§749.767. When is a volunteer or contractor who is part of another organization subject to my policies and procedures?

Subchapter E, Agency Staff and Caregivers

Division 6, Contract Staff and Volunteers

January 2017

(a) A volunteer or contractor who is part of another organization is subject to your policies and procedures unless that organization provides screening, training, and supervision to the volunteer/contractor that are adequate to protect the health and safety of children Before the volunteer/contractor can have contact with children [Medium-Low].:

(1) The volunteer/contractor must meet the relevant requirements of your policies and procedures; or

(2) You must confirm that the organization provides adequate screening, training, and supervision.

(b) An organization may be another licensed operation.

§749.769. May a person perform community service hours at my agency?

Subchapter E, Agency Staff and Caregivers

Division 6, Contract Staff and Volunteers

January 2017

A person may not perform community service at your agency. For the purpose of this rule, community service includes service a person must perform because the person is on probation, parole, or otherwise required to perform the service through the courts because of criminal activity [High].

Subchapter F, Training and Professional Development

Division 1, Definitions

§749.801. What do certain words and terms mean in this subchapter?

Subchapter F, Training and Professional Development

Division 1, Definitions

April 2022

The words and terms used in this subchapter have the following meanings:

(1) CPR − Cardiopulmonary resuscitation.

(2) Hours − Clock hours.

(3) Instructor-led training - Training that is characterized by the communication and interaction that takes place between the student and the instructor. Instructor-led training does not have to be in person, but it must include an opportunity for the student to interact with the instructor to obtain clarifications and information beyond the scope of the training materials. For such an opportunity to exist, the instructor must be able to answer questions, provide feedback on skills practice, provide guidance or information on additional resources, and proactively interact with students. Examples of this type of training include classroom training, online distance learning, blended learning, video-conferencing, or other group learning experiences.

(4) Self-instructional training--Training designed to be used by one individual working alone and at the individual's own pace to complete lessons or modules. Lessons or modules commonly include questions with clear right and wrong answers. An example of this type of training is web-based training. Self-study training is also a type of self-instructional training.

(5) Self-study training--Non-standardized training where an individual reads written materials, watches a training video, or listens to a recording to obtain certain knowledge that is required for annual training. Self-study training is limited to three hours of annual training per year, as described in §749.935(d) of this subchapter (relating to What types of hours or instruction can be used to complete the annual training requirements?).

Division 2, Overview of Training and Experience Requirements

§749.811. What are the training and experience requirements for a caregiver?

Subchapter F, Training and Professional Development

Division 2, Overview of Training and Experience Requirements

June 2021

(a) A caregiver must complete the following training requirements, unless the caregiver meets the requirements of an exemption or a waiver for the training that is provided in this subchapter:

Type of training for caregivers:	When must the training be completed?
(1) Orientation, as required by §749.831 of this subchapter (relating to What is the orientation requirement for caregivers and employees?).	Prior to having contact with children.
(2) Pre-service training, as required by §749.863 of this subchapter (relating to What are the pre-service training requirements for a caregiver?).	Varies with the type of training. See §749.863 of this subchapter.
(3) Pediatric first aid and CPR, as required by §749.911 of this subchapter (relating to Who must have pediatric first aid and pediatric CPR training?).	One foster parent must be certified in pediatric first aid and pediatric CPR before you place a child in the home. Other caregivers, including a second foster parent, must be certified in first aid and CPR within 90 days after you place the child in the home.
(4) Annual training, as required by §749.930 of this subchapter (relating to What are the annual training requirements for a caregiver?).	(A) Within 12 months after you verify the person as a foster parent or a caregiver begins providing care to a child; and (B) As further required by §749.933 of this subchapter (relating to When must an employee or caregiver complete annual training?).

(b) You must ensure that a caregiver who provides care to a child receiving treatment services meets the pre-service experience requirements specified in §749.861 of this subchapter (relating to What are the pre-service experience requirements for caregivers?).

§749.813. What are the training requirements for an employee?

Subchapter F, Training and Professional Development

Division 2, Overview of Training and Experience Requirements

June 2021

An employee must complete the following training requirements, unless the employee meets the requirements of an exemption for the training that is provided in this subchapter:

Type of training for employees:	When must the training be completed?
(1) Orientation, as required by §749.831 of this subchapter (relating to What is the orientation requirement for caregivers and employees?).	Prior to beginning job duties.
(2) Pre-service training, as required by §749.864 of this subchapter (relating to What are the pre-service training requirements for an employee?).	Within 90 days of beginning job duties.
(3) Annual training, as required by §749.931 of this subchapter (relating to What are the annual training requirements for an employee?).	(A) Within 12 months after you hire the employee; and (B) As further required by §749.933 of this subchapter (relating to When must an employee or caregiver complete annual training?).

Division 3, Orientation

§749.831. What is the orientation requirement for caregivers and employees?

Subchapter F, Training and Professional Development

Division 2, Overview of Training and Experience Requirements

January 2007

(a) Prior to beginning job duties or having contact with children in care, each caregiver or employee must have orientation that includes [Medium]:

(1) An overview of the relevant and applicable rules of this chapter [Medium];

(2) Your philosophy, organizational structure, policies, and a description of the services and programs you offer [Medium]; and

(3) The needs and characteristics of children that you serve. [Medium]

(b) You must document the completion of the orientation in the appropriate personnel record. [Medium-Low]

§749.833. When may a caregiver or employee be exempt from orientation?

Subchapter F, Training and Professional Development

Division 3, Orientation

June 2021

(a) A person who was a caregiver or employee at your agency during the past 12 months may be exempt from orientation if you meet the following requirements:

(1) You discuss with the person any changes in your services or programs that have occurred since the person was previously a caregiver or employee [Medium]; and

(2) If the person is an employee, you ensure the employee received training during the past 12 months from your agency on prevention, recognition, and reporting on child abuse, neglect, and exploitation. [Medium]

(3) If the person is acting as a caregiver, you do not allow the person to be the only caregiver for a group of children before you meet the requirement in paragraph (1) of this section [Medium].

(b) You must document the discussion and the previous training in the person's foster home record or personnel record. [Medium-Low]

Division 4, Pre-Service Experience and Training

§749.861. What are the pre-service experience requirements for caregivers?

Subchapter F, Training and Professional Development

Division 3, Orientation

January 2017

(a) For caregivers providing care to children only receiving child-care services and/or programmatic services, there are no pre-service experience requirements.

(b) Before a caregiver can provide care to a child receiving treatment services, you must ensure that the caregiver has the experience to care for the child's treatment need. If a caregiver does not have the necessary experience, your child-placement management staff must prescribe a regimen of specific child-care experience that the caregiver must complete before you place a child with treatment needs in the caregiver's home, including a minimum of eight hours of observations of interactions with children receiving similar treatment services as the prospective caregiver would be providing. [Medium-High]

(c) You must document the caregiver's experience and/or prescribed regimen in the home's record. [Medium]

§749.863. What are the pre-service training requirements for a caregiver?

Subchapter F, Training and Professional Development

Division 4, Pre-Service Experience and Training

June 2021

(a) A caregiver must complete the following applicable types of pre-service training within the noted timeframe:

Weight	What type of pre-service training is required?	What caregivers must receive the training?	How many hours of training are required?	When must the caregivers complete the training?
[Medium]	(1) General Pre-Service Training	(A) All caregivers	(B) 8 hours	(C)(i) One foster parent must complete the training before you place a child in the home; and (ii) Other caregivers, including a second foster parent, must complete the training within 90 days after you place the child in the home.
[Medium]	(2) Normalcy	(A) Foster parents	(B) 2 hours	(C)(i) One foster parent must complete the training before you place a child in the home; and (ii) A second foster parent must complete the training within 90 days after you place the child in the home.

Weight	What type of pre-service training is required?	What caregivers must receive the training?	How many hours of training are required?	When must the caregivers complete the training?
[Medium-High]	(3) Emergency Behavior Intervention, if you do not allow the use of emergency behavior intervention	(A) Caregivers who care for children receiving: (i) Only child care services or programmatic services; or (ii) Treatment services for emotional disorders, intellectual disabilities, or autism spectrum disorder	(B) 8 hours	(C)(i) One foster parent must complete at least four hours of training before you place a child in the home, and the remaining hours within 90 days after you place the child in the home; and (ii) Other caregivers, including a second foster parent, must complete the training within 90 days after you place the child.
[Medium-High]	(4) Emergency Behavior Intervention, if you allow the use of emergency behavior intervention	(A) Caregivers who care for children receiving: (i) Only child care services or programmatic services; or (ii) Treatment services for emotional disorders, intellectual disabilities, or autism spectrum disorder	(B)(i) 8 hours for caregivers who only care for children described in subsection (a)(4)(A)(i) of this section; or (ii) 16 hours for caregivers who care for children described in subsection (a)(4)(A)(ii) of this section	(C)(i) One foster parent must complete at least half of the hours of training before you place a child in the home, and the remaining hours within 90 days after you place the child in the home; (ii) Other caregivers, including a second foster parent, must complete the training within 90 days after you place the child in the home; and (iii) A caregiver may not administer any form of emergency behavior intervention before completing all the required training hours for emergency behavior intervention, except for administering a short personal restraint.

Weight	What type of pre-service training is required?	What caregivers must receive the training?	How many hours of training are required?	When must the caregivers complete the training?
[Medium-High]	(5) Safe Sleeping	(A) Caregivers who care for children younger than two years of age	(B) No specified hours	(C)(i) One foster parent must complete the training before you place a child in the home; and (ii) Other caregivers, including a second foster parent, must complete the training within 90 days after you place the child in the home.
[Medium-High]	(6) Administering Psychotropic Medication	(A) Caregivers who administer psychotropic medication	(B) No specified hours	(C) A caregiver must complete the training before administering a psychotropic medication.

(b) A caregiver who cares exclusively for children receiving treatment services for primary medical needs is exempt from the pre-service emergency behavior intervention training requirement.

(c) To meet the pre-service training requirements, the training must comply with the applicable curriculum requirements in Division 5 of this subchapter (relating to Curriculum Components for Pre-Service Training).

(d) You must document the completion of each training requirement in the appropriate foster home record or personnel record [Medium-Low].

Technical Assistance
The Department of Family and Protective Services, a single source continuum contractor, or your child-placing agency may require additional pre-service training.

§749.864. What are the pre-service training requirements for an employee?

Subchapter F, Training and Professional Development

Division 4, Pre-Service Experience and Training

June 2021

(a) An employee must complete the following applicable training types and hours within the noted timeframes:

What type of pre-service training is required?	Who is required to receive the trainings?	How many hours of training are required?	When must the training be completed?
(1) Normalcy [Medium]	Child-placing agency administrators, treatment directors, child placement staff, child placement management staff, and full-time professional service providers, excluding any employee who is exclusively assigned responsibilities related to adoption services	2 Hours	Within 90 days of beginning job duties.
(2) Emergency Behavior Intervention [Medium]	Child-placing agency administrators, treatment directors, child placement staff, child placement management staff, and full-time professional service providers, excluding any employee who is exclusively assigned responsibilities related to adoption services or the care of children receiving treatment services for primary medical needs	8 Hours	Within 90 days of beginning job duties.

(b) To meet the pre-service training requirements, the training must comply with the applicable curriculum requirements in Division 5 of this subchapter (relating to Curriculum Components for Pre-Service Training).

(c) You must document the completion of each training requirement in the appropriate personnel record. [Medium-Low]

§749.865. Can time spent in orientation training count towards pre-service training?

Subchapter F, Training and Professional Development

Division 4, Pre-Service Experience and Training

January 2007

No, the orientation training must be separate from the pre-service hourly training requirement. [Medium-Low]

Technical Assistance
Orientation is focused on providing new employees and caregivers with information about your organization and how it operates. Pre-service training is focused on preparing new employees and caregivers to do their job competently. This is the reason that these requirements are separate in the minimum standards and that orientation may not be counted toward pre-service or annual training requirements.

§749.867. What caregivers or employees are exempt from certain pre-service training requirements?

Subchapter F, Training and Professional Development

Division 4, Pre-Service Experience and Training

June 2021

(a) A caregiver is exempt from completing the eight hours of general pre-service training if the caregiver has been a caregiver for a residential child-care operation during the past 12 months.

(b) A caregiver or employee is exempt from completing the two hours of normalcy training if the foster parent or employee has:

(1) Been a caregiver for or employed by a residential child-care operation during the past 12 months;

(2) Received training on normalcy during the past 12 months; and

(3) Can document that the training was received [Medium-Low].

(c) A caregiver or employee is exempt from completing the pre-service training for emergency behavior intervention if the caregiver or employee:

(1) Has been a caregiver for or employed by a residential child-care operation during the past 12 months;

(2) Has received emergency behavior intervention training during the past 12 months that meets the required curriculum components of the following applicable rule:

(A) §749.887 of this subchapter (relating to If I do not allow the use of emergency behavior intervention, what curriculum components must be included in the pre-service training for emergency behavior intervention?); or

(B) §749.889 of this subchapter (relating to If I allow the use of emergency behavior intervention, what curriculum components must be included in the pre-service training for emergency behavior intervention?); and

(3) Can demonstrate knowledge and competency of the training material in writing and, if the child-placing agency allows the use of emergency behavior intervention, in physical techniques.

(d) You must document the exemption factors in the appropriate foster home record or personnel record [Medium-Low].

§749.868. Can a child-placing agency waive pre-service training requirements for a foster parent?

Subchapter F, Training and Professional Development

Division 4, Pre-Service Experience and Training

April 2022

(a) A child-placing agency, including a single source continuum contractor, may waive any of the following pre-service training requirements for a foster parent if the agency determines that the requirement is not directly related to the ages and number of children the foster home will care for and the types of services the home will provide:

(1) General pre-service training;

(2) Normalcy; or

(3) Emergency behavior intervention.

(b) After waiving a pre-service training requirement for a foster parent, an agency must reevaluate the waiver if, within the first year, there is a change in the foster home's verification with respect to the ages or number of children the home can care for or the types of services the home can provide. If the agency determines that the waived preservice training is directly related to the ages or number of children the home can care for, or the types of services the home can provide, the foster parent must complete the training. [Medium]

(c) You must document:

(1) Any determination that a waiver of pre-service is appropriate for a foster parent [Medium-Low]; and

(2) Any re-evaluation of the foster home due to changes to the ages or number of children the home can care for or the types of services the home can provide. [Medium-Low]

§749.869. How must pre-service training be conducted?

Subchapter F, Training and Professional Development

Division 4, Pre-Service Experience and Training

June 2021

(a) Instructor-led training and self-instructional training must include:

(1) Specifically stated learning objectives [Medium-Low];

(2) An evaluation or assessment tool to determine whether the person has obtained the information necessary to meet the stated objectives [Medium]; and

(3) A certificate, letter, or a signed and dated statement of successful completion from the training source [Medium-Low].

(b) Pre-service training must be provided by an instructor who [Medium]:

(1) Holds a generally recognized credential; or

(2) Possesses documented knowledge or experience relevant to the training the instructor will provide.

(c) Training on administering psychotropic medication must be instructor-led, as defined in §749.801(3) of this subchapter (relating to What do certain words and terms mean in this subchapter?). The instructor must be a health-care professional or pharmacist [Medium-High].

(d) Training on emergency behavior intervention must:

(1) Be instructor-led with each instructor certified in a recognized method of emergency behavior intervention [Medium-High] or otherwise able to document knowledge of:

(A) Emergency behavior intervention [Medium-High];

(B) The course material [Medium-High];

(C) Methods for delivering the training, including physical techniques for restraints, if applicable [Medium-High]; and

(D) Methods for evaluating and assessing a participant's knowledge and competency of the training material and physical techniques, if applicable [Medium-High];

(2) Be competency-based [Medium-High]; and

(3) At the end of the training, require each participant to demonstrate knowledge and competency of the training material:

(A) In writing [Medium-High]; and

(B) If the child-placing agency allows the use of emergency behavior intervention, by demonstrating the physical technique the participant is allowed to use [Medium-High].

Division 5, Curriculum Components for Pre-Service Training

§749.881. What curriculum components must be included in the general pre-service training?

Subchapter F, Training and Professional Development

Division 5, Curriculum Components for Pre-Service Training

June 2021

The general pre-service training must include the following curriculum components:

(1) Topics appropriate to the needs of children for whom the caregiver will be providing care, such as developmental stages of children, fostering children's self-esteem, constructive guidance and discipline of children, water safety, and strategies and techniques for monitoring and working with these children [Medium];

(2) Trauma informed care [Medium];

(3) The different roles of caregivers [Medium];

(4) Measures to prevent, recognize, and report suspected occurrences of child abuse (including sexual abuse), neglect, and exploitation [Medium-High];

(5) Procedures to follow in emergencies, such as weather related emergencies, volatile persons, and severe injury or illness of a child or adult [Medium-High]; and

(6) Preventing the spread of communicable diseases. [Medium-High]

§749.882. What curriculum components must be included in the pre-service training for normalcy?

Subchapter F, Training and Professional Development

Division 5, Curriculum Components for Pre-Service Training

June 2021

The pre-service training for normalcy must include the following curriculum components:

(1) A discussion of the definitions of normalcy and the reasonable and prudent parent standard [Medium-High];

(2) The developmental stages of children, including a discussion of the cognitive, social, emotional, and physical development of children [Medium];

(3) Age appropriate activities for children, including unsupervised childhood activities [Medium];

(4) The benefits of childhood activities to a child's well-being, mental health, and social, emotional, and developmental growth [Medium];

(5) How to apply the reasonable and prudent parent standard to make decisions [Medium-High]; and

(6) The child's and the caregiver's responsibilities when participating in childhood activities. [Medium-High]

Technical Assistance
A caregiver's specific responsibilities for a child that participates in unsupervised activities are listed at §749.2593(d) of this chapter (relating to What responsibilities does a caregiver have when supervising a child?).

§749.883. What curriculum components must be included in the pre-service training for safe sleeping?

Subchapter F, Training and Professional Development

Division 5, Curriculum Components for Pre-Service Training

June 2021

The pre-service training for safe sleeping must include the following curriculum components:

(1) Recognizing and preventing shaken baby syndrome and abusive head trauma [Medium-High];

(2) Understanding safe sleeping practices and preventing sudden infant death syndrome [Medium-High]; and

(3) Understanding early childhood brain development. [Medium]

§749.885. What curriculum components must be included in the pre-service training for administering psychotropic medication?

Subchapter F, Training and Professional Development

Division 5, Curriculum Components for Pre-Service Training

June 2021

The pre-service training for administering psychotropic medication must include the following curriculum components:

(1) Identification of psychotropic medications [High];

(2) Basic pharmacology (the actions and side effects of, and possible adverse reactions to, various psychotropic medications) [Medium-High];

(3) Techniques and methods of administering medications [Medium-High];

(4) Who is legally authorized to provide consent for the psychotropic medication [Medium]; and

(5) Any related policies and procedures. [High]

Technical Assistance
The online psychotropic medication training of the Child Protective Services Division of DFPS satisfies this general pre-service training requirement as long as caregivers also get instructor-led training that covers: ● Policies and procedures on administering medication; and ● Who may consent to using psychotropic medications for children who are not in the conservatorship of DFPS.

§749.887 If I do not allow the use of emergency behavior intervention, what curriculum components must be included in the pre-service training for emergency behavior intervention?

Subchapter F, Training and Professional Development

Division 5, Curriculum Components for Pre-Service Training

June 2021

If you do not allow the use of emergency behavior intervention, the pre-service training for emergency behavior intervention must focus on early identification of potential problem behaviors and strategies and techniques for less restrictive interventions, including the following curriculum components [Medium]:

(1) Developing and maintaining an environment that supports positive and constructive behaviors [Medium];

(2) The causes of behaviors potentially harmful to a child, including aspects of the environment [Medium];

(3) Early signs of behaviors that may become dangerous to a child or others [Medium-High];

(4) Strategies and techniques a child can use to avoid harmful behaviors [Medium-High];

(5) Teaching a child to use the strategies and techniques of your agency's de-escalation protocols to avoid harmful behavior, and supporting the children's efforts to progress into a state of self-control [Medium-High];

(6) Less restrictive strategies caregivers can use to intervene in potentially harmful behaviors [Medium-High];

(7) Less restrictive strategies caregivers can use to work with an oppositional child [Medium];

(8) Addressing circumstances when all de-escalation strategies fail [Medium]; and

(9) The risks associated with the use of prone or supine restraints, including positional, compression, or restraint asphyxia. [Medium-High]

§749.889. If I allow the use of emergency behavior intervention, what curriculum components must be included in the pre-service training for emergency behavior intervention?

Subchapter F, Training and Professional Development

Division 5, Curriculum Components for Pre-Service Training

June 2021

(a) If you allow the use of emergency behavior intervention, at least 75 percent of the pre-service training for emergency behavior intervention must focus on early identification of potential problem behaviors and strategies and techniques for less restrictive interventions, including the curriculum components listed in §749.887 of this division (relating to If I do not allow the use of emergency behavior intervention, what curriculum components must be included in the pre-service training for emergency behavior intervention?) [Medium-High].

(b) The training does not have to address the use of any type of emergency behavior intervention that your policies do not allow.

(c) The other 25 percent of the pre-service training curriculum for emergency behavior intervention must include the following components:

(1) Different roles and responsibilities of caregivers qualified in emergency behavior intervention, versus employees or volunteers who are not qualified in emergency behavior intervention [Medium-High];

(2) Escape and evasion techniques to prevent harm to the child and caregiver without requiring the use of an emergency behavior intervention [Medium-High];

(3) Safe implementation of the restraint techniques and procedures that are appropriate for the age and weight of children served and permitted by the rules in this chapter and your policies and procedures [Medium-High];

(4) The physiological impact of emergency behavior intervention [Medium-High];

(5) The psychological impact of emergency behavior intervention, such as flashbacks from prior abuse [Medium-High];

(6) How to adequately monitor the child during the administration of an emergency behavior intervention to prevent injury or death [High];

(7) Monitoring physical signs of distress and obtaining medical assistance [High];

(8) Health risks for children associated with the use of specific techniques and procedures [Medium-High];

(9) Drawings, photographs, or videos of each personal restraint permitted by your policy [Medium-High]; and

(10) Strategies for re-integration of children into the environment after the use of emergency behavior intervention, including the debriefing of caregivers and the child [Medium].

Division 6, Pediatric First Aid and Pediatric CPR Certification

§749.911. Who must have pediatric first aid and pediatric CPR training?

Subchapter F, Training and Professional Development

Division 6, Pediatric First Aid and Pediatric CPR Certification

June 2021

(a) Each caregiver must have a current certificate of training with an expiration or renewal date in pediatric first aid with rescue breathing and choking. This training may be through instructor-led training or self-instructional training. [High]

(b) Each caregiver must have a current certificate of training with an expiration or renewal date in pediatric CPR [Medium-High]. The pediatric CPR training:

(1) Must adhere to the guidelines for CPR for a layperson established by the American Heart Association, and consist of a curriculum that incudes use of a CPR manikin and both written and hands-on skill-based instruction, practice, and testing [Medium-High]; and

(2) May be provided through blended learning that utilizes online technology, including self-instructional training, as long as the criteria in paragraph (1) of this subsection is met.

(c) One foster parent must be certified in pediatric first aid and pediatric CPR before you place a child in the home. Other caregivers, including a second foster parent, must be certified in pediatric first aid and pediatric CPR within 90 days after you place the child in the home [Medium-High].

(d) In lieu of either or both certifications, a caregiver may provide documentation of the following:

(1) Training as a health professional that includes the knowledge covered in either pediatric first aid or pediatric CPR, or both; and

(2) The caregiver's employment as a health professional requires that the relevant skills remain current.

§749.913. Are there any exemptions from pediatric first aid and pediatric CPR certification?

Subchapter F, Training and Professional Development

Division 6, Pediatric First Aid and Pediatric CPR Certification

June 2021

(a) If a caregiver is absent from the home on an extended basis as a condition of the caregiver's employment or military service, the caregiver is exempt from obtaining current certification in pediatric first aid and pediatric CPR during this time of absence. The caregiver must obtain pediatric first aid and pediatric CPR certifications within 90 days after returning home [Medium-High].

(b) A child-placement staff member who meets the definition of a caregiver only because the staff member provides transportation for children in foster care, must obtain pediatric first-aid certification, but is exempt from pediatric CPR certification.

§749.915. What documentation must I maintain for pediatric first-aid and pediatric CPR certifications?

Subchapter F, Training and Professional Development

Division 6, Pediatric First Aid and Pediatric CPR Certification

June 2021

(a) You must document the caregiver's completion of each training requirement in the appropriate foster home record or personnel record. The documentation may be a certificate, letter, or a signed and dated statement of successful completion from the training source. You may maintain a photocopy of the original pediatric first-aid or pediatric CPR certificate or letter in the foster home record or personnel record, as long as the caregiver can provide an original document upon request by Licensing. [Medium-Low]

(b) The documentation must include:

(1) The participant's name [Medium-Low];

(2) Date of the training [Medium-Low];

(3) Title or subject of the training [Medium-Low];

(4) The trainer's name and qualifications [Medium-Low];

(5) The expiration date of the certification as determined by the organization providing the certification [Medium-Low]; and

(6) Length of the training in hours [Medium-Low].

Division 7, Annual Training

§749.930. What are the annual training requirements for a caregiver?

Subchapter F, Training and Professional Development

Division 7, Annual Training

June 2021

(a) A caregiver must complete the number of annual training hours described in the following chart:

Weight	A caregiver who cares for children receiving:	Must complete the following number of annual training hours:
[Medium-High]	(1) Only child-care services, programmatic services, or treatment services for primary medical needs, or a combination of these services	10 hours
[Medium-High]	(2) Treatment services for emotional disorders, intellectual disabilities, or autism spectrum disorder	25 hours

(b) For a home with two foster parents, the foster parents may combine their individual training hours to meet the total number of required annual training hours. If each foster parent is required to complete 10 hours, they must collectively complete 20 hours. If each foster parent is required to complete 25 hours, they must collectively complete 50 hours. [Medium-High] But the foster parents do not have to split the total number of required hours equally, if:

(1) Each foster parent completes each of the required annual training hours noted in subsection (c) of this section; and

(2) They complete the combined total number of required hours for annual training.

(c) For the annual training hours described in subsection (a) of this section, each caregiver must complete the following specific types of training and hours:

Weight	Type of Training	Hours
[Medium-High]	(1) Emergency Behavior Intervention	(A) 4 hours for a caregiver who cares only for children receiving: (i) Child-care or programmatic services; or (ii) Treatment services for primary medical needs in addition to children receiving child-care or programmatic services. (B) No hours for a caregiver who cares exclusively for children receiving treatment services for primary medical needs. (C) 8 hours for a caregiver who cares for children receiving treatment services for emotional disorders, intellectual disabilities, or autism spectrum disorder.
[Medium-High]	(2) Trauma Informed Care	2 hours
[Medium-High]	(3) Normalcy	1 hour
[Medium-High]	(4) Administering Psychotropic Medication, if the caregiver administers psychotropic medication	No specified hours

(d) To meet the mandated annual training requirements in subsection (c) of this section, the training must comply with the applicable curriculum requirements in Division 8 of this subchapter (relating to Topics and Curriculum Components for Annual Training).

(e) After completing the type of annual training required in subsection (c) of this section, any remaining number of annual training hours must be in areas appropriate to the needs of children for whom the caregiver provides care, as required by §749.941 of this subchapter (relating to What areas or topics are appropriate for annual training?).

Technical Assistance
The Department of Family and Protective Services, a single source continuum contractor, or your child-placing agency may require additional annual training.

§749.931. What are the annual training requirements for an employee?

Subchapter F, Training and Professional Development

Division 7, Annual Training

April 2022

(a) Each type of employee in the chart must complete the following number of annual training hours:

Weight	Type of Employee	Hours of Annual Training
[Medium-High]	(1) Child placement staff with less than one year of child-placing experience	30 hours
[Medium]	(2) Child placement staff with at least one year of child-placing experience; all child placement management staff, except those exclusively assigned to provide adoption services	20 hours
[Medium]	(3) Executive directors, treatment directors, and fulltime professional service providers who do not hold a relevant professional license	20 hours
[Medium]	(4) Child-placing agency administrators, executive directors, treatment directors, and full-time professional service providers who hold a relevant professional license	15 hours

(b) For the annual training hours described in subsections (a)(1), (2), and (3) of this section, each employee must complete the following specific types of training and hours:

Weight	Type of Training	Hours
[Medium-High]	(1) Prevention, Recognition, and Reporting on Child Abuse, Neglect, and Exploitation	1 hour
[Medium-High]	(2) Trauma Informed Care	2 hours
[Medium-High]	(3) Normalcy	1 hour

(c) The annual training hours for an employee described in subsection (a)(4) of this section:

(1) Must include one hour of training on prevention, recognition, and reporting on child abuse, neglect, and exploitation [Medium]; and

(2) May include annual training hours that the employee completes to maintain a relevant professional license, if the hours include the necessary components of subsection (c)(1) of this section or the employee completes those components separately.

(d) There are no annual training requirements for emergency behavior intervention. However, the employee must be retrained whenever there is a substantial change in techniques, types of intervention, or agency policies for emergency behavior intervention [Medium-High].

Technical Assistance
Your child-placing agency may require additional annual training.

§749.932. What exemptions or waivers may apply to the annual training requirements for a caregiver?

Subchapter F, Training and Professional Development

Division 7, Annual Training

June 2021

(a) If a caregiver is absent from the home on an extended basis as a condition of the caregiver's employment or military service, you must prorate the caregiver's annual training requirements based on the number of months out of the year that the caregiver will be at the home. If a caregiver is absent for an entire year, the caregiver is exempt for the annual training hours for that year.

(b) A child-placing agency, including a single source continuum contractor, may waive certain annual training requirements for a foster parent or for a foster home as described in subsection (c) of this section if:

(1) The foster parent or foster home has been verified by the child-placing agency the previous two years; and

(2) During that timeframe, the child-placing agency was not cited for any deficiencies related to the foster parent or the foster home and there are no pending allegations related to the foster parent or the foster home.

(c) For a foster parent or foster home that meets the requirements described in subsection (b) of this section, the agency may waive the following types of training upon determining that the training is not directly related to the care of any foster child in the home:

(1) Emergency behavior intervention;

(2) Trauma informed care; or

(3) Normalcy.

(d) A child-placing agency that waives certain annual training requirements for a foster home under subsection (c) of this section may waive the training for one or both foster parents and any other caregiver in the home.

(e) A child-placing agency may not waive a foster parent's annual training for emergency behavior intervention, trauma informed care, or normalcy during consecutive years [Medium].

(f) You must document the basis of the exemption, proration, or waiver in the appropriate foster home record or personnel record [Medium-Low].

§749.933. When must an employee or caregiver complete the annual training?

Subchapter F, Training and Professional Development

Division 7, Annual Training

June 2021

(a) Each person must complete the annual training:

(1) Within 12 months from when [Medium]:

(A) You hire the person as an employee, including employees hired or acting as a caregiver;

(B) You verify the person as a foster parent; or

(C) A caregiver in the home, that is not an employee or foster parent, begins providing care to a child; and

(2) During each subsequent 12-month period after the anniversary date of hire, verification, or beginning the provision of care [Medium].

(b) Alternatively, you have the option of prorating the person's annual training requirements from the date of hire or verification to the end of the calendar year or the end of the agency's fiscal year and then beginning a new 12-month period that coincides with the calendar or fiscal year.

(c) Whether an agency uses subsection (a) or (b) of this section as your method for completing annual training requirements, you must use the method consistently throughout your agency [Medium-Low].

§749.935. What types of hours or instruction can be used to complete the annual training requirements?

Subchapter F, Training and Professional Development

Division 7, Annual Training

April 2022

(a) If the training complies with the other rules in this division (relating to Annual Training), annual training may include hours or Continuing Education Units earned through:

(1) Workshops or courses offered by local school districts, colleges or universities, or Licensing;

(2) Conferences or seminars;

(3) Instructor-led training, as defined at §749.801(3) of this subchapter (relating to What do certain words and terms mean in this subchapter?);

(4) Self-instructional training, as defined at §749.801(5) of this subchapter;

(5) Planned learning opportunities provided by child-care associations or Licensing;

(6) Planned learning opportunities provided by a child-placing agency administrator, professional contract service provider, professional service provider, treatment director, child placement management staff, child placement staff, contractor, or caregiver who meets minimum qualifications in the rules of this chapter; or

(7) Completed college courses for which a passing grade is earned, with three college credit hours being equivalent to 50 clock hours of required training. College courses do not substitute for required CPR or first aid certification or required annual training on emergency behavior intervention or psychotropic medication.

(b) For annual training hours, you may count:

(1) The hours of annual training that a person received at another residential child-care operation if the person [Medium]:

(A) Received the training within the time period you are using to calculate the person's annual training; and

(B) Provides documentation of the training;

(2) Pediatric first aid and pediatric CPR;

(3) Any hours of pre-service training that the person earned in addition to the required pre-service hours, although you may not carry over more than 15 hours of a person's pre-service training hours for use as annual training hours during the upcoming year [Medium];

(4) Half of the hours spent developing initial training curriculum that is relevant to the population of children served, but no additional credit hours for training curriculum development are permitted for repeated training sessions [Medium]; and

(5) One-fourth of the hours spent updating and making revisions to training curriculum that is relevant to the population of children served. [Medium]

(c) For annual training hours, you may not count:

(1) Orientation training [Medium-Low];

(2) Required pre-service training [Medium-Low];

(3) The hours involved in case staffings and conferences with the supervisor [Medium-Low]; or

(4) The hours presenting training to others. [Medium-Low]

(d) No more than 80 percent of the required annual training hours may come from self-instructional training as defined at §749.801(5) of this subchapter. No more than three of those self-instructional hours may come from self-study training as defined at §749.801(6) of this subchapter. [Medium-Low]

(e) If a person earns more than the minimum number of annual training hours required during a particular year, the person can carry over to the next year a maximum of 15 annual training hours [Medium-Low].

Technical Assistance
Here are two examples to clarify (b)(3): (1) if a person completes a total of 35 hours of pre-service training and is required to complete a total of 18 hours of pre-service training, then that person may only carry over a maximum of 15 of the hours toward the annual training requirements even though the person completed 17 extra hours of non-required, pre-service training; and (2) if a person completes a total of 35 hours of pre-service training and is required to complete a total of 26 hours of pre-service training, then that person may only carry over 9 hours toward the annual training requirements because the person completed 9 extra hours of non-required, pre-service training.

§749.937. Does Licensing approve training resources or trainers for annual training hours?

Subchapter F, Training and Professional Development

Division 7, Annual Training

June 2021

We do not approve or endorse training resources or trainers for training hours.

§749.939. How must annual training be conducted?

Subchapter F, Training and Professional Development

Division 7, Annual Training

June 2021

(a) Instructor-led training and self-instructional training, excluding self-study training, must include:

(1) Specifically stated learning objectives [Medium-Low];

(2) A curriculum that includes experiential or applied activities [Medium-Low];

(3) An evaluation or assessment tool to determine whether the person has obtained the information necessary to meet the stated objectives [Medium]; and

(4) A certificate, letter, or a signed and dated statement of successful completion from the training source [Medium-Low].

(b) Training on emergency behavior intervention and administering psychotropic medication must be instructor-led, as defined at §749.801(3) of this subchapter (relating to What do certain words and terms mean in this subchapter?) [Medium].

(c) Training on emergency behavior intervention must:

(1) Be led by an instructor who is certified in a recognized method of emergency behavior intervention [Medium-High] or otherwise able to document knowledge of:

(A) Emergency behavior intervention [Medium-High];

(B) The course material [Medium-High];

(C) Methods for delivering the training, including physical techniques for restraints, if applicable [Medium-High]; and

(D) The methods for evaluating and assessing a participant's knowledge and competency of the training material and physical techniques, if applicable [Medium-High];

(2) Be competency-based [Medium-High]; and

(3) At the end of the training, require each participant to demonstrate knowledge and competency of the training material:

(A) In writing [Medium-High]; and

(B) If the child-placing agency allows the use of emergency behavior intervention, by demonstrating the physical techniques that the participant may use [Medium-High].

(d) A health-care professional or a pharmacist must lead the training in administering psychotropic medication. The trainer must assess each participant after the training to ensure that the participant has learned the course content. [Medium-High]

Division 8, Topics and Curriculum Components for Annual Training

§749.941. What areas or topics are appropriate for annual training?

Subchapter F, Training and Professional Development

Division 8, Topics and Curriculum Components for Annual Training

June 2021

(a) Other than the mandated topics, annual training for caregivers must be in areas appropriate to the needs of children for whom the caregiver provides care [Medium], which may include:

(1) Developmental stages of children;

(2) Constructive guidance and discipline of children;

(3) Fostering children's self-esteem;

(4) Positive interaction with children;

(5) Strategies and techniques for working with the population of children served;

(6) Supervision and safety practices in the care of children, including making reasonable and prudent parenting decisions for a foster child's participation in childhood activities;

(7) Preventing the spread of communicable diseases;

(8) Water safety;

(9) Administration of medication;

(10) Medical-related training to help children receiving treatment services for primary medical needs;

(11) Helping children experience grief or loss;

(12) Prevention, recognition, and reporting of child abuse, neglect, and exploitation; or

(13) Safe sleeping as specified in §749.883 of this subchapter (relating to What curriculum components must be included in the pre-service training for safe sleeping?).

(b) Other than mandated topics, annual training for employees must be in areas appropriate to the needs of children for whom the child-placing agency provides care [Medium], which may include:

(1) The areas listed in subsection (a) of this section and;

(2) Emergency behavior intervention.

Technical Assistance
A person should attempt to attend trainings in new topic areas every year and whenever the person believes there is a need for improvement or additional knowledge. A person should avoid attending the same training every year, unless there is a specific need for information on that topic. ● Here are some examples of annual training topics: o Helping children cope with separation, such as from parents, family, and placement; o Helping or preparing children for re-integration into a family, community, or subsequent placement; o Stages of child development, including normal behavioral reactions to stress at the various ages of children served by the agency; o Healthy personal boundaries and professional relationship boundaries; o Protecting self and others from false allegations; o Training to perform special tasks such as the care of gastric tubes or lifeguard certification training, if applicable; o For a caregiver who provides care to children receiving treatment services for emotional disorders, training on cognitive distortions and how they apply to the children; or o Special needs of children in care, which may include areas such as sexualized behavior, trauma, medical needs, and/or developmental disorders.

§749.943. What curriculum components must be included in the annual training for normalcy?

Subchapter F, Training and Professional Development

Division 8, Topics and Curriculum Components for Annual Training

June 2021

(a) The annual training for normalcy must include the curriculum components covered in the pre-service training for normalcy, see §749.882 of this subchapter (relating to What curriculum components must be included in the pre-service training for normalcy?) [Medium-High].

(b) Subsequent annual training for normalcy should include curriculum components that further develops and refines the employee's knowledge and understanding of normalcy, including how to implement normalcy [Medium].

§749.944. What curriculum components must be included in the annual training for employees on the prevention, recognition, and reporting of child abuse, neglect, and exploitation?

Subchapter F, Training and Professional Development

Division 8, Topics and Curriculum Components for Annual Training

June 2021

The annual training for the prevention, recognition, and reporting of child abuse, neglect, and exploitation must include the following curriculum components:

(1) The factors indicating a child is at risk for abuse, neglect, or exploitation [Medium-High];

(2) The warning signs indicating a child may be a victim of abuse, neglect, or exploitation [Medium-High];

(3) The procedures for reporting child abuse, neglect, or exploitation [High]; and

(4) A list of community organizations that have training programs available to child-placing agency staff members, children, and parents [Medium].

§749.945. What curriculum components must be included in the annual training for administering psychotropic medication?

Subchapter F, Training and Professional Development

Division 8, Topics and Curriculum Components for Annual Training

June 2021

The annual training for administering psychotropic medication must include the curriculum components identified in §749.885 of this subchapter (relating to What curriculum components must be included in the pre-service training for administering psychotropic medication?) [Medium].

Technical Assistance
The online psychotropic medication training of the Child Protective Services Division of DFPS satisfies this annual training requirement as long as caregivers also get instructor-led training that covers: ● Policies and procedures on administering medication; and ● Who may consent to using psychotropic medications for children who are not in the conservatorship of DFPS.

§749.947. What curriculum components must be included in the annual training for emergency behavior intervention?

Subchapter F, Training and Professional Development

Division 8, Topics and Curriculum Components for Annual Training

June 2021

(a) The annual training for emergency behavior intervention must include curriculum components that:

(1) Reinforce basic principles covered in the pre-service training identified in §749.887 of this subchapter (relating to If I do not allow the use of emergency behavior intervention, what curriculum components must be included in the pre-service training for emergency behavior intervention?) and §749.889 of this subchapter (relating to If I allow the use of emergency behavior intervention, what curriculum components must be included in the pre-service training for emergency behavior intervention?) [Medium-High]; and

(2) Develop and refine the caregiver's skills [Medium-High].

(b) You may determine the content of the training based on your evaluation of your emergency behavior intervention programs.

(c) The training may repeat pre-service training components, including training in the proper use and implementation of emergency behavior intervention.

Technical Assistance
Annual emergency behavior intervention training is not intended to be an exact replica of pre-service emergency behavior intervention training. While some review of previous content may be needed to ensure that caregivers retain necessary skills, you are expected and encouraged to use your emergency behavior intervention data to craft annual training that can most effectively improve the use of de-escalation techniques and emergency behavior interventions in your foster homes. This may include techniques caregivers can use to proactively avoid crisis situations and any necessary actions once all de-escalation attempts have failed.

§749.949. What documentation must I maintain for annual training?

Subchapter F, Training and Professional Development

Division 8, Topics and Curriculum Components for Annual Training

June 2021

(a) You must keep documentation verifying completion of annual training in the appropriate foster home record or personnel record. The documentation may be a certificate, letter, or a signed and dated statement of successful completion from the training source. The documentation may also be a transcript from an accredited college or university. [Medium-Low]

(b) The documentation for training other than college courses must include the following information:

(1) The participant's name [Medium-Low];

(2) Date of the training [Medium-Low];

(3) Title or subject of the training [Medium-Low];

(4) The trainer's name and qualifications, or the source of the training for self-instructional training [Medium-Low]; and

(5) Length of the training in hours. [Medium-Low]

Subchapter G, Children's Rights

§749.1001. How must I protect the rights of children served by my child-placing agency?

Subchapter G, Children's Rights

January 2007

(a) You must protect the rights of children while they are in foster care or in adoptive placement prior to the consummation of the adoption. [Medium-High]

(b) You must ensure that a caregiver or an adoptive parent, prior to consummation of the adoption, does not restrict or deny a child's rights. [Medium-High]

(c) You are responsible for removing a child from a situation where abuse, neglect, or exploitation exists. [High]

§749.1003. What rights does a child in care have?

Subchapter G, Children's Rights

January 2017

(a) A child's rights are cumulative of any other rights granted by law or other Licensing rules. [Medium-Low]

(b) The following categories include the child's rights that you must adhere to:

(1) Safety and care, including:

(A) The right to good care and treatment that meets the child's needs in the most family-like setting possible [Medium-High];

(B) The right to be free from abuse, neglect, and exploitation [High]; and

(C) The right to fair treatment [Medium-High];

(2) Family contacts, including the right to maintain regular contact with the child's parents and siblings, unless restrictions are necessary because of the child's best interest, the decision of an appropriate professional, or a court order [Medium];

(3) Living a normal life, including:

(A) The right to speak and be spoken to in the child's own language, including Braille if the child is blind or sign language if the child is deaf. This should also occur within a reasonable time after an emergency admission of a child, if applicable. You must make every effort to place a child with foster parent(s) who can communicate with the child. If these efforts are not successful, you must document in the preliminary service plan your plan to meet the communication needs of the child [Medium];

(B) The right to receive educational services appropriate to the child's age and developmental level [Medium-Low];

(C) The right to have the child's religious needs met [Medium-High];

(D) The right to participate in childhood activities, including foster family activities and activities away from the foster home and the foster parents, that are appropriate for the child's age, maturity, and developmental level [Medium];

(E) The right to privacy, including sending and receiving unopened mail, making and receiving phone calls, keeping a personal journal, and having visitors, unless the child's best interest, appropriate professionals, or court order necessitates restrictions [Medium];

(F) The right to personal care, hygiene, and grooming equipment and supplies and training in how to use them [Medium];

(G) The right to have comfortable clothing, which is suitable to the child's age and size and similar to the clothing of other children in the community. Teenagers should have reasonable opportunities to select the clothing [Medium];

(H) The right to clothing that protects the child against the weather [Medium-High];

(I) The right to have personal items at the child's home and to get additional things within reasonable limits [Medium-Low];

(J) The right to personal space in the child's bedroom to store clothes and belongings [Medium-Low];

(K) The right to be informed of search policies and be free of unreasonable searches and unreasonable removal of personal items [Medium-Low];

(L) Depending on the child's age and maturity, the right to seek employment, keep the child's own money, have a bank account in the child's name, and get paid for any work done for the agency or home as part of the child's service plan or vocational training, with the exception of assigned routine duties that relate to the child's living environment, such as cleaning the child's room, or other chores, or work assigned as a disciplinary measure [Medium-Low];

(M) The right to consent in writing before taking part in any publicity or fund raising activity for the foster home or agency, including the use of the child's photograph [Medium-Low];

(N) The right to refuse to make public statements showing gratitude to the foster home or agency [Medium-Low]; and

(O) The right to not be pressured to get an abortion, give up her child for adoption, or parent her child, if applicable [High];

(4) Discipline, including:

(A) The right to be free from any harsh, cruel, unusual, unnecessary, demeaning, or humiliating treatment or punishment. [High] This means the child must not be:

(i) Shaken [High];

(ii) Subjected to or threatened with corporal punishment, including spanking or hitting the child [High];

(iii) Forced to do unproductive work that serves no purpose except to demean the child, such as moving rocks from one pile to another or digging a hole and then filling it in [Medium-High];

(iv) Denied food, sleep, a bathroom, mail, or family visits as punishment [High];

(v) Subjected to remarks that belittle or ridicule the child or the child's family [Medium-High];

(vi) Threatened with the loss of placement or shelter as punishment [Medium]; and

(vii) Subjected to demeaning behavior to embarrass, control, harm, intimidate, or isolate the child. "Demeaning behavior" may include using physical force, rumors, threats, or inappropriate comments [Medium-High];

(B) The right to discipline that is appropriate to the child's age, maturity, and developmental level [Medium-High]; and

(C) The right to have restrictions or disciplinary policies explained to the child at admittance and when the measures are imposed [Medium];

(5) Plans for the child while in care, including:

(A) The right to have a comprehensive service plan that addresses the child's needs, including transitional and discharge planning [Medium]; and

(B) The right to actively participate in the development of the child's service plan within the limits of the child's comprehension and ability to manage the information. The child has the right to a copy or summary of the plan. A child 14 years of age or older has the right to review and sign the service plan [Medium];

(6) Medical care and records, including:

(A) The right to medical, dental, vision, and mental health care and developmental services that adequately meet the child's needs. The right to request that the care or services be separate from adults (other than young adults) who are receiving services [Medium];

(B) The right to be free of unnecessary or excessive medication [Medium-High]; and

(C) The right to confidential care and treatment, including keeping medical records and agency records private and only discussing them when it is about the child's care [Medium-Low]; and

(7) Complaints, including the right to make calls, reports, or complaints without interference, coercion, punishment, retaliation, or threats of punishment or retaliation. The child may make these calls, reports, or complaints anonymously. Depending upon the nature of the complaint, the child has the right to call, report, or complain to [High]:

(A) The DFPS Texas Abuse/Neglect Hotline at 1-800-252-5400;

(B) The HHSC Ombudsman for Children and Youth Currently in Foster Care at 1- 844-286-0769;

(C) The DFPS Office of Consumer Affairs at 1-800-720-7777; or

(D) Disability Rights of Texas at 1-800-252-9108.

§749.1005. How must I inform a child and the child's parents of their rights?

Subchapter G, Children's Rights

January 2017

(a) Within seven days after you admit a child into your agency, you must review the child's rights with the child and a child's parent, unless the parent's consent is not required. You must also provide the child and a child's parent with a written copy of the child's rights. [Medium]

(b) Child rights must be written in:

(1) Simple, non-technical terms [Medium]; and

(2) English, unless the person does not understand English. The child's rights must be written in the person's primary language, if possible. [Medium]

(c) If the person you are informing has a visual or auditory impairment, you must explain the child's rights in a manner that is understandable to the person. [Medium]

(d) The person you are informing of the child's rights must sign a statement indicating that the person has read and understands these rights. A copy of a timely signed "CPS Rights of Children and Youth in Foster Care" will meet this standard. You must put the signed copy in the child's record. [Medium]

§749.1007. What are a child's rights regarding education?

Subchapter G, Children's Rights

January 2017

(a) A child must have an appropriate education through participation in an educational/vocational program in the most appropriate and least restrictive educational settings, for example: attending regular classes conducted in an accredited elementary, middle, or secondary school within the community or home schooling. [Medium-Low]

(b) Foster parents and caregivers must, as applicable:

(1) Attend and participate in school staffings, conferences, and education planning meetings [Medium-Low];

(2) Make reasonable efforts to allow the child to participate in extracurricular activities [Medium-Low]; and

(3) Make reasonable efforts to allow the child to participate in school extracurricular activities to the extent of his interests and abilities and in accordance with his service plan. [Medium-Low]

§749.1009. What right does a child have regarding contact with a parent?

Subchapter G, Children's Rights

January 2007

(a) You must allow contact between a child and his parent whose parental rights have not been terminated according to [Medium]:

(1) Your policies [Medium-Low]; and

(2) The provisions of a court order or any visitation agreement. [Medium]

(b) You must document in the child's record:

(1) Any plans for contact between the child and a parent [Medium-Low]; and

(2) Any decision to limit contact with a parent. [Medium]

(c) Before you can temporarily restrict ongoing contacts or communication between the child and a parent, your child placement management staff must:

(1) Explain the reasons for the restrictions to the child and the child's parent [Medium-Low]; and

(2) Document the reasons in the child's record. [Medium-Low]

(d) Restrictions imposed by you that continue more than 30 days must be re-evaluated monthly by your child placement management staff, who also must [Medium]:

(1) Explain the reasons for the continued restrictions to the child and the child's parents [Medium-Low]; and

(2) Document the reasons in the child's record. [Medium-Low]

(e) If you limit communications or visits with a parent for practical reasons, such as geographical distance or expense, you must discuss the limits with the child and the child's parents. You must document the limits in the child's record. [Medium-Low]

§749.1011. What right does a child have regarding contact with siblings?

Subchapter G, Children's Rights

January 2017

(a) A child must have a reasonable opportunity for sibling visits and contacts in an effort to preserve sibling relationships. [Medium]

(b) You must address plans for sibling visits and contacts in the child's record. [Medium-Low]

(c) When you restrict sibling contact, you must include justification in the child's record. Restrictions imposed by you that continue for more than 60 days must be re-evaluated every 60 days by your child placement management staff, who also must [Medium]:

(1) Explain the reasons for the continued restrictions to the child [Medium]; and

(2) Document the reasons in the child's record. [Medium-Low]

(d) If barriers to visits exist, such as unavoidable geographic distance and expense issues, the agency must make provisions for sibling contact through letters, telephone calls, or some other means. [Medium]

§749.1013. What right to privacy does a child have with respect to his contact with others?

Subchapter G, Children's Rights

September 2010

(a) Except as determined by child placement management staff or the child's parent, you may not:

(1) Open or read the child's incoming or outgoing mail, including electronic mail, unless necessary to assist the child with reading or writing [Medium]; or

(2) Listen to or screen the child's telephone calls unless the child needs assistance with using the telephone. [Medium]

(b) You must document in the child's record:

(1) Any reason for restrictions on the child's mail or telephone calls that you impose [Medium-Low]; and

(2) A listing of the mail or telephone calls that you restrict. [Medium-Low]

(c) You must inform the child and parent about restrictions that you place on the child. [Medium-Low]

(d) Restrictions imposed by you that continue for more than 30 days must be re-evaluated monthly by your child placement management staff, who also must [Medium]:

(1) Explain the reasons for the continued restrictions to the child [Medium-Low]; and

(2) Document the reasons in the child's record. [Medium-Low]

Technical Assistance
Minimum standards §§749.1009, 749.1011, and 749.1013 apply only to contact restrictions imposed by you. Limitations or restrictions on contact imposed by the court or by the child's parent(s) are not subject to the explanation, documentation, and re-evaluation requirements in these rules. However, it is recommended that you retain written notice of any contact restrictions imposed by the court or parent(s), so that you will have documentation of who imposed the restrictions.

§749.1015. Under what circumstances may I conduct a search for **prohibited items or items that endanger a child's safety?**

Subchapter G, Children's Rights

January 2007

(a) A child's possessions must be free of unreasonable searches and unreasonable removal of personal items. [Medium-Low]

(b) You may search a child, his possessions, or his room only when you have reasonable suspicion [Medium-Low]:

(1) Of the presence of a prohibited item or an item that endangers the child's safety;

(2) That the child made suicidal threats or threatened to hurt himself or others; or

(3) That the child or children was involved in theft.

(c) Only a caregiver may conduct searches that involve the removal of clothing, other than outer clothing, such as coats, jackets, hats, gloves, shoes, or socks. [Medium]

(d) If a search of a child who is five years old or younger involves the removal of clothing (other than outer clothing), another adult must witness the search. [Medium-High]

(e) If a search of a child who is over the age of five involves the removal of clothing (other than outer clothing), an adult of the same gender must witness the search. [Medium-High]

(f) The caregiver must ensure that other children do not witness a search that involves the removal of clothing, other than outer clothing. [Medium-High]

§749.1017. May a caregiver conduct a body cavity search of a child in care?

Subchapter G, Children's Rights

January 2007

With the exception of a child's mouth, a caregiver may not conduct a body cavity search of a child in care. [High]

§749.1019. What must a caregiver document regarding a search?

Subchapter G, Children's Rights

January 2007

A caregiver must document the following in the child's record when conducting a search if it results in the removal of personal items or clothing worn by the child [Medium-Low]:

(1) The date of the search [Medium-Low];

(2) The name of the child [Medium-Low];

(3) Reason for the search [Low];

(4) A description of what was searched [Low];

(5) The articles of clothing removed, if applicable [Medium-Low];

(6) The name of the person conducting the search [Medium-Low];

(7) The name of the witness, if applicable [Medium-Low];

(8) The results of the search [Low]; and

(9) The resolution of the issue with the child or children involved. [Medium-Low]

§749.1021. What techniques am I prohibited from using on a child?

Subchapter G, Children's Rights

January 2017

Certain techniques must not be used on a child, including:

(1) Chemical restraints, mechanical restraints, and seclusion. For more information on emergency behavior intervention, see Subchapter L of this chapter (relating to Foster Care Services: Emergency Behavior Intervention) [Medium-High];

(2) Aversive conditioning, which includes, but is not limited to, any technique designed to or likely to cause a child physical pain, the application of startling stimuli, and the release of noxious stimuli or toxic sprays, mists, or substances in proximity to the child's face [Medium-High];

(3) Pressure points [Medium-High];

(4) Rebirthing therapy [Medium-High]; and

(5) Hug and/or holding therapy. [Medium-High]

Subchapter H, Foster Care Services: Admission and Placement

Technical Assistance
The admission information and admission assessment requirements vary based on the circumstances of the child's admission. Here are the applicable minimum standards based on the type of admission: 1. Regular Admission: a. Admission information per 749.1107 b. Admission assessment per 749.1133 i. Subsection (b) prior to admission ii. Subsection (c) within 40 days 2. Emergency Admission: a. Admission information per 749.1189 b. Admission assessment per 749.1133 i. Subsection (b) within 40 days ii. Subsection (c) within 40 days

Division 1, Admissions

§749.1101. Who may I admit?

Subchapter H, Foster Care Services: Admission and Placement

Division 1, Admissions

September 2010

(a) You may only admit children or young adults who meet your admission policy guidelines and whose needs you can meet. If you adopt a change in your admission policies that requires a change in the conditions of your permit, you must request an amendment to your permit with us. [Medium]

(b) Each placement must meet the child's physical, medical, recreational, educational, and emotional needs as identified in the child's admission assessment. [Medium-High]

§749.1103. After a child in my care turns 18 years old, may the person remain in my care?

Subchapter H, Foster Care Services: Admission and Placement

Division 1, Admissions

September 2010

(a) A young adult may remain in your care until his 23rd birthday in order to [Medium-Low]:

(1) Transition to independence, including attending college or vocational or technical training;

(2) Attend high school, a program leading to a high school diploma, or GED classes;

(3) Complete your program; or

(4) Stay with a minor sibling.

(b) A young adult who turns 18 in your care may remain in your care indefinitely if the person [Medium-Low]:

(1) Continues to need the same level of care; and

(2) Is unlikely to physically and/or intellectually progress over time.

§749.1105. May I admit a young adult into care?

Subchapter H, Foster Care Services: Admission and Placement

Division 1, Admissions

September 2010

(a) You may admit a young adult into your transitional living program.

(b) For other programs or services, the young adult must [Medium-Low]:

(1) Come immediately from another residential child-care operation if the reason for admittance is consistent with a condition listed in §749.1103 of this title (relating to After a child in my care turns 18 years old, may the person remain in my care?); or

(2) Be in the care of the Texas Department of Family and Protective Services.

(c) A young adult may remain in your care until his 23rd birthday. [Medium-Low]

§749.1107. What information must I document in the child's record at the time of admission?

Subchapter H, Foster Care Services: Admission and Placement

Division 1, Admissions

September 2022

(a) You must include the following in the child's record at the time of admission:

(1) The child's name, gender, race, religion, and date of birth [Medium-Low];

(2) The name, address, and telephone number of the managing conservator, the primary caregivers for the child, any person with whom the child is allowed to leave the foster home, and any other individual who has the legal authority to consent to the child's medical care [Medium-Low];

(3) The names, addresses, and telephone numbers of biological or adoptive parents, unless parental rights have been terminated [Medium-Low];

(4) The names, addresses, and telephone numbers of siblings [Medium-Low];

(5) The date of admission [Medium-Low];

(6) Medication the child is taking [Medium-Low];

(7) The child's immunization record [Medium];

(8) Allergies, such as food, medication, sting, and skin allergies [Medium-High];

(9) Chronic health conditions, such as asthma or diabetes [Medium-High];

(10) Known contraindications to the use of restraint [Medium-High];

(11) Identification of the child's treatment needs, if applicable, and any additional treatment services or programmatic services the child is receiving [Medium];

(12) Identification of the child's high-risk behaviors, if applicable, and the safety plan employees and caregivers will implement related to the behaviors [High];

(13) If a suicide risk screening is required at admission and the child is screened as having a high or potential risk of suicide [High]:

(A) The identification of any risk factors or warning signs of suicide, if applicable and not already identified in paragraph (12) of this section; and

(B) The safety plan employees and caregivers will implement related to the risk factors and warning signs;

(14) The results of the suicide screening at admission, if required [Medium];

(15) A copy of the placement agreement, if applicable [Low]; and

(16) Documentation of the attempt to notify the parent of the child's location as required by §749.1113(c)(3) of this title (relating to What information must I share with the parent at the time of placement?), if applicable. [Medium]

(b) For emergency admissions, you must meet the requirements in Division 4 of this subchapter (relating to Emergency Admission).

§749.1109. What is a placement agreement?

Subchapter H, Foster Care Services: Admission and Placement

Division 1, Admissions

January 2017

(a) A placement agreement is your agreement with a child's parent or the child that defines your roles and responsibilities and authorizes you to obtain or provide services for the child. The placement agreement must include:

(1) Authorization permitting you to care for the child [Medium-Low];

(2) A medical consent form signed by a person authorized by the Texas Family Code to provide consent [High]; and

(3) The reason for placement and anticipated length of time in care. [Low]

(b) A placement agreement must be signed by the child's parent, except as provided in subsection (c). [Medium]

(c) For a transitional living program, a child 16 years old or older may sign the placement agreement on the child's own behalf, as provided in the Texas Family Code §32.203, without the consent of the child's parent if the child [Medium]:

(1) Resides separate and apart from the child's parent and manages the child's own financial affairs;

(2) Is unmarried and pregnant; or

(3) Is unmarried and a parent.

§749.1111. What orientation must I provide a child?

Subchapter H, Foster Care Services: Admission and Placement

Division 1, Admissions

January 2017

(a) Within seven days of admission, you must provide orientation to each newly admitted child who is five years old or older. You must gear orientation to the intellectual level of the child. [Medium]

(b) Orientation must include information about your policies on the following [Medium-Low]:

(1) Visitation, including family visitation and overnight visitation [Medium-Low];

(2) Mail [Medium-Low];

(3) Telephone calls [Medium-Low];

(4) Gifts [Low];

(5) Personal possessions, including any limits placed on the possessions the child may or may not have [Medium-Low];

(6) Emergency behavior intervention, including your agency's policies and practices on the use of personal restraint and the child's input on preferred de-escalation techniques that caregivers can use to assist the child in the de-escalation process [Medium-High];

(7) Discipline [Medium-High];

(8) The religious program and practices [Medium-Low];

(9) The educational program [Low];

(10) Trips away from the home [Medium-Low];

(11) Program expectations and rules [Medium-Low]; and

(12) Internal grievance procedures. [Medium-Low]

(c) Orientation must include information on how to [Low]:

(1) Make complaints to outside agencies [Medium-High]; and

(2) Contact parties to a child's case (i.e. caseworker, attorney ad litem, guardian ad litem, CASA worker, etc.). [Medium]

(d) You must document in the child's record when the orientation occurred, any item that the orientation did not include, and the reason that the orientation did not include that item. [Low]

§749.1113. What information must I share with the parent at the time of placement?

Subchapter H, Foster Care Services: Admission and Placement

Division 1, Admissions

April 2022

(a) At admission, you must provide the following policies to the parent placing the child [Medium]:

(1) Fee policies [Low];

(2) Emergency behavior intervention policies [Medium-Low];

(3) Discipline policies [Medium-Low];

(4) Adoption policies, if applicable [Medium-Low]; and

(5) Any other policies required by us, upon request of the parent. [Medium-Low]

(b) At admission, you must provide and explain the following written information and policies to the parent placing the child:

(1) Information about the policies that you would present a child during orientation [Medium-Low];

(2) Your policies regarding the:

(A) Use of volunteers, if applicable [Low];

(B) Type and frequency of notifications made to parents [Low]; and

(C) Involvement of the child in any publicity or fundraising activity for the agency [Low]; and

(3) Information about the parent's right to refuse to or withdraw consent for a child to participate in:

(A) Research programs [Medium-Low]; or

(B) Publicity or fundraising activities for the agency. [Low]

(c) If you sign a placement agreement for a transitional living program with a child as specified in §749.1109(c) of this title (relating to What is a placement agreement?), then you:

(1) Must share the policies noted in subsection (a) of this section with the child, instead of the parent [Medium-Low];

(2) Do not have to comply with subsection (b) of this section, but you must provide and explain to the child your policies regarding the:

(A) Use of volunteers, if applicable [Low];

(B) Involvement of the child in any publicity or fundraising activity for the agency [Low]; and

(C) Child's right to refuse to or withdraw consent to participate in:

(i) Research programs [Medium-Low]; or

(ii) Publicity or fundraising activities for the agency [Low]; and

(3) Must attempt to notify the child's parent of the child's location, if the child was admitted without the consent of the parent. [Medium-High]

§749.1115. What information must I provide caregivers when I admit a child?

Subchapter H, Foster Care Services: Admission and Placement

Division 1, Admissions

January 2017

(a) By the day you admit the child for care, you must provide the caregivers responsible for the child's care with information about the child's immediate needs, such as enrolling the child in school or obtaining needed medical care or clothing. [Medium]

(b) You must inform appropriate caregivers of any special needs, such as medical or dietary needs or conditions or supervision needs, and document that the information was shared with the caregiver. [Medium-High]

Division 2, Admission Assessment

§749.1131. When must I complete the admission assessment?

Subchapter H, Foster Care Services: Admission and Placement

Division 2, Admission Assessment

January 2017

You must complete a non-emergency admission assessment prior to admission. [Medium]

§749.1133. What information must an admission assessment include?

Subchapter H, Foster Care Services: Admission and Placement

Division 2, Admission Assessment

April 2022

(a) An admission assessment must provide an initial evaluation of the appropriate placement for a child and ensure that you obtain the information necessary for you to facilitate service planning. [Medium]

(b) Prior to a child's non-emergency admission, an admission assessment must be completed, which includes [Medium-Low]:

(1) The child's legal status [Low];

(2) A description of the circumstances that led to the child's referral for substitute care [Medium];

(3) A description of the child's behavior, including appropriate and maladaptive behavior, and any high-risk behavior [Medium-High];

(4) Any history of physical, sexual, or emotional abuse or neglect [Medium-High];

(5) Any history of trauma [Medium-High];

(6) Current medical and dental status, including the available results of any medical and dental examinations [Medium];

(7) Current mental health and substance abuse status, including available results of any psychiatric evaluation, psychological evaluation, or psychosocial assessment [Medium];

(8) The child's current developmental, educational, and behavioral level of functioning [Medium-High];

(9) The child's current educational level, and any school problems [Medium];

(10) Any applicable requirements of §749.1135 of this division (relating to What are the additional admission assessment requirements when I admit a child for treatment services?) [Medium];

(11) Documentation indicating efforts made to obtain any of the information in paragraphs (1)-(10) of this subsection, if any information is not obtainable [Medium-Low];

(12) The services you plan to provide to the child [Medium-Low];

(13) Immediate goals of placement [Medium-Low];

(14) The parent's expectations for placement, duration of the placement, and family involvement [Low];

(15) The child's understanding of the placement [Low]; and

(16) A determination of whether and how you can meet the needs of the child. [Medium]

(c) Prior to completing a child's initial service plan, the following information must be added to the admission assessment [Medium-Low]:

(1) The child's social history, including information about past and existing relationships with the child's birth parents, siblings, extended family members, and other significant adults and children, and the quality of those relationships with the child [Medium-Low];

(2) A description of the child's home environment and family functioning [Medium-Low];

(3) The child's birth and neonatal history [Medium-Low];

(4) The child's developmental history [Medium-Low];

(5) The child's mental health and substance abuse history [Medium-Low];

(6) The child's school history, including the names of previous schools attended and the dates the schools were attended, grades earned, and special achievements [Low];

(7) The child's history of any other placements outside the child's home, including the admission and discharge dates and reasons for placement [Medium-Low];

(8) The child's criminal history, if applicable [Medium];

(9) The child's skills and special interests [Medium-Low];

(10) Documentation indicating efforts made to obtain any of the information in paragraphs (1)–(9) of this subsection, if any information is not obtainable [Low];

(11) The services you plan to provide to the child, including long-range goals of placement [Medium-Low];

(12) Recommendations for any further assessments and testing [Medium-Low];

(13) A recommended behavior management plan [Medium]; and

(14) A determination of whether and how you can meet the needs of the child, based on an evaluation of the child's special strengths and needs. [Medium]

(d) You must attempt to obtain a signed authorization, so you can subsequently request in writing materials from the child's current or most recent placement, such as the admission assessment, professional assessments, and the discharge summary. You must consider information from these materials when you complete your admission assessment if they are made available to you. [Medium-Low]

§749.1135. What are the additional admission assessment requirements when I admit a child for treatment services?

Subchapter H, Foster Care Services: Admission and Placement

Division 2, Admission Assessment

September 2022

When you admit a child for treatment services, you must do the following, as applicable:

If:	Then:
(1) You intend to provide treatment services for a child with an emotional disorder or autism spectrum disorder	(A) The admission assessment must include a written, dated, and signed [Medium-High]: (i) Psychiatric evaluation or psychological evaluation, including the child's diagnosis [Medium-High]; or (ii) Psychosocial assessment as defined in §749.43 of this title (relating to What do certain words and terms mean in this chapter?). [Medium-High] (B) The psychiatric evaluation, psychological evaluation, or psychosocial assessment must have been completed within [Medium]: (i) 14 months of the date of admission, if the child is coming from another regulated residential child care operation [Medium]; or (ii) Six months of the date of admission, if the child is not coming from another regulated residential child care operation. (C) The admission assessment must include the reasons for choosing treatment services for the child. [Medium] (D) The admission assessment must include consideration given to any history of inpatient or outpatient treatment. [Medium-Low]

If:	Then:
(2) You intend to provide treatment services for a child with an intellectual disability	(A) The admission assessment must include a written, dated, and signed [Medium-High]: (i) Psychological evaluation with psychometric testing, including the child's diagnosis [Medium-High]; or (ii) Psychosocial assessment as defined in §749.43 of this title. [Medium-High] (B) The psychological evaluation or psychosocial assessment must be completed within 14 months of the date of admission. [Medium] (C) The psychological evaluation must: (i) Be performed by a licensed psychologist who has experience with intellectual disabilities or published scales [Medium]; (ii) Include the use of standardized tests to determine the intellectual functioning of a child. The test results must be documented in the evaluation [Medium]; (iii) Determine and document the child's level of adaptive functioning [Medium]; and (iv) Indicate manifestations of an intellectual disability as defined in the Diagnostic and Statistical Manual of Mental Disorders 5 (DSM-5). [Medium] (D) The admission assessment must include the reasons for choosing treatment services for the child. [Medium-Low] (E) The admission assessment must include consideration given to any history of inpatient or outpatient treatment. [Medium-Low]

If:	Then:
(3) You intend to provide treatment services for a child with primary medical needs	(A) The admission assessment must have a licensed physician's signed, written orders as the basis for the child's admission. An evaluation from a health care professional must confirm that the child can be cared for appropriately in a foster home setting and that the foster parents have been trained to meet the needs of the child and demonstrated competency. [Medium-High] (B) The written orders or hospital discharge must include orders for: (i) Medications [Medium-High]; (ii) Treatments [Medium-High]; (iii) Diet [Medium-High]; (iv) Range-of-motion program at stated intervals [Medium-High]; (v) Habilitation, as appropriate [Medium-High]; and (vi) Any special medical or developmental procedures. [Medium-High] (C) The admission assessment must include the reasons for choosing treatment services for the child. [Medium] (D) The admission assessment must include consideration given to any history of inpatient or outpatient treatment. [Medium]

If:	Then:
(4) You intend to provide services to a child that is determined to be an immediate danger to others based on the child's behavior and history within the last two months, or a child is screened as a high or potential risk of suicide based on the results of a suicide risk screening at admission	(A) The admission assessment must include a written, dated, and signed [Medium-High]: (i) Psychiatric evaluation or psychological evaluation, including the child's diagnosis [Medium-High]; or (ii) Psychosocial assessment as defined in §749.43 of this title. [Medium-High] (B) The psychiatric evaluation or psychological evaluation must include: (i) The child's diagnosis, if applicable [Medium-High]; (ii) An assessment of the child's needs and potential danger to self or others [Medium-High]; and (iii) Recommendations for care, treatment, and further evaluation. If the child is admitted, the recommendations must become part of the child's service plan and must be implemented. [Medium-High] (C) The psychiatric evaluation, psychological evaluation, or psychosocial assessment must have been completed within [Medium]: (i) 14 months of the date of admission, if the child is coming from another regulated residential child care operation [Medium]; or. (ii) Six months of the date of admission, if the child is not coming from another regulated residential child care operation. [Medium]

§749.1137. What if I cannot obtain the required information for an admission assessment?

Subchapter H, Foster Care Services: Admission and Placement

Division 2, Admission Assessment

January 2007

(a) You must make reasonable efforts to obtain all required information. [Medium]

(b) If you and the child's parent determine that attempting to get information at the time of placement would not be in the child's best interests, you may postpone attempting to acquire the information. [Medium]

(c) In the child's admission assessment, you must document why a:

(1) Particular piece of information is unavailable [Medium]; or

(2) Delay obtaining a piece of information is necessary, including efforts made to obtain the information. [Medium]

Technical Assistance
Regarding subsection (a), Licensing expects documentation of at least three attempts to comply with a minimum standard requiring "reasonable effort" to obtain information. Efforts should be reasonably spaced, allowing enough time for a person to respond yet not unreasonably delaying the acquisition of the requested information. Example: Calling a CPS caseworker or parent three times in one day would not be considered three separate "reasonable efforts" to obtain needed information, as this does not allow the person reasonable time to respond to each of the requests. Example: Calling a CPS caseworker or parent once every three months to obtain information needed for an admission assessment would not be considered reasonable effort to obtain the information, as the third attempt would be made at least six months after the child was placed. Example: Calling a CPS caseworker or parent once a week for three weeks to obtain information needed for an admission assessment would be considered reasonable effort to obtain the information, as this gives ample time for the person to respond to each call, and also seeks to obtain the information within one month of admission. No further attempts would be expected if the information was not obtained after these three attempts.

Division 3, Required Admission Information

§749.1151. What are the medical requirements when I admit a child into care?

Subchapter H, Foster Care Services: Admission and Placement

Division 3, Required Admission Information

January 2017

(a) You must ensure that the child has a medical examination by a health-care professional within 30 days after the date of admission. This exam is not required if you have documentation that the child has had a medical examination within the past year, including documentation in the child's health passport if the child is in the department's conservatorship. [Medium-High]

(b) If you admit a child with primary medical needs, you must provide the child with a medical examination by a health-care professional within seven days before or three days after admission. [High]

(c) If a child admitted shows symptoms of abuse or illness, a health-care professional must examine the child immediately. [High]

(d) The reports and findings of any medical examination must be documented in the child's record according to §749.1401(b) and (c) of this title (relating to What general medical requirements must my agency meet?). [Medium-Low]

Technical Assistance
Regarding subsection (a), there is one exception for those operations that contract with Child Protective Services. A child new to state conservatorship must receive a medical exam (Texas Health Steps Checkup) within 30 days after the date of admission into the foster care system. This must occur even if the child's health passport indicates that the child received a medical exam prior to entering the foster care system.

§749.1153. What are the dental requirements when I admit a child into care?

Subchapter H, Foster Care Services: Admission and Placement

Division 3, Required Admission Information

January 2017

(a) If the child is younger than three years old and a health-care professional recommends a dental examination, then you must ensure that a dentist examines the child. [Medium-Low]

(b) A child three years old or older must have a dental appointment scheduled with a dentist within 30 days after the date of admission, and the examination must occur within 90 days after the date of admission. A dental examination is not required if you have documentation that the child has had a dental examination within the past year, including documentation in the child's health passport if the child is in the department's conservatorship. [Medium-Low]

(c) The report and findings of the dental examination must be documented in the child's record according to §749.1409(b) and (c) of this title (relating to What general dental requirements must my agency meet?). [Medium-Low]

§749.1155. What must I document when I re-admit a child for care?

Subchapter H, Foster Care Services: Admission and Placement

Division 3, Required Admission Information

January 2007

For re-admission, you must complete the admission documentation as if the child was never in your care; or for children that were discharged from your agency within the last 12 months, you may update the previous admission documentation. [Medium-Low]

Division 4, Emergency Admission

§749.1181. For which of my programs may I accept emergency admissions?

Subchapter H, Foster Care Services: Admission and Placement

Division 4, Emergency Admission

January 2007

You may accept emergency admissions in all of your programs with the exception of a transitional living program. [Medium]

§749.1183. What constitutes an emergency admission to my child-placing agency?

Subchapter H, Foster Care Services: Admission and Placement

Division 4, Emergency Admission

July 2018

It is an emergency admission if:

(1) You must place the child within 72 hours;

(2) The child was removed from a situation involving alleged abuse or neglect;

(3) The child is an alleged perpetrator of abuse and cannot be served in the child's current placement due to the child's perpetrating behaviors;

(4) The child displays behavior that is an immediate danger to self or to others and cannot function or be served in his current setting;

(5) The child was abandoned and, after exercising reasonable efforts, the child's identity cannot be immediately determined. You must document the efforts made to obtain information on the child's identity in the child's record;

(6) The child was removed from the child's home or placement, and there is an immediate need to find a residence for the child;

(7) A law enforcement officer released the child to your child-placing agency that has been authorized to accept such admissions; or

(8) The child is otherwise without adult care.

§749.1185. May I take possession of a child from a law enforcement officer?

Subchapter H, Foster Care Services: Admission and Placement

Division 4, Emergency Admission

July 2018

You may take possession of a child from a law enforcement officer only if you meet the requirements of 40 TAC Chapter 745, Subchapter H, Division 2 (relating to Taking Possession of a Child Directly from a Law Enforcement Officer). [Medium-Low]

§749.1187. For an emergency admission, when must I complete all of the requirements for an admission assessment?

Subchapter H, Foster Care Services: Admission and Placement

Division 4, Emergency Admission

January 2017

(a) For an emergency admission, you must complete all of the requirements (see Division 2 of this subchapter (relating to Admission Assessment)) for an admission assessment within 40 days from the date of the child's admission. [Medium]

(b) In an emergency admission of a child receiving treatment services, the child must not continue in care for more than 30 days after the date of admission unless the child has received the psychiatric evaluation, psychological evaluation, psychosocial assessment, or medical evaluation that is required by §749.1135 of this title (relating to What are the additional admission assessment requirements when I admit a child for treatment services?), and the evaluation or assessment indicates manifestations of the disorder requiring treatment services. All evaluations and assessments must be signed, dated, and documented in the child's record. [Medium]

§749.1189. At the time of an emergency admission, what information must I document in the child's record?

Subchapter H, Foster Care Services: Admission and Placement

Division 4, Emergency Admission

September 2022

At the time of the emergency admission you must document in the child's record:

(1) A brief description of the circumstances necessitating the emergency admission [Medium-Low];

(2) The date of admission [Low];

(3) Allergies, such as food, medication, sting, and skin allergies [Medium-High];

(4) Chronic health conditions, such as asthma or diabetes [Medium-High];

(5) Known contraindications to the use of restraint [High];

(6) Identification of the child's high-risk behaviors, if applicable, and the safety plan employees and caregivers will implement related to the behaviors [High];

(7) If a suicide risk screening is required at admission and the child is screened as having a high or potential risk of suicide [High]:

(A) The identification of any risk factors or warning signs of suicide, if applicable and not already identified in paragraph (6) of this section; and

(B) The safety plan employees and caregivers will implement related to the risk factors and warning signs;

(8) The results of the suicide screening at admission, if required [Medium]; and

(9) For the purpose of providing treatment services:

(A) A brief description of the child's history [Medium];

(B) The child's current behavior [Medium]; and

(C) Your evaluation of how the placement will meet the child's needs and best interests. [Medium-Low]

Division 5, Foster Care Placement

§749.1251. What are the requirements for pre-placement visits for a child?

Subchapter H, Foster Care Services: Admission and Placement

Division 5, Foster Care Placement

January 2007

(a) A child over six months of age must visit the foster home at least once before placement. [Medium-Low]

(b) There must be a meaningful interval between the pre-placement visit and the placement. This interval must be at least sufficient to allow a child and foster parents to have privacy, an opportunity to discuss and consider placement, and to have their questions, opinions, and concerns addressed. [Medium-Low]

(c) You must document pre-placement visits in the child's record. [Medium-Low]

(d) Pre-placement visits are not required for emergency admissions.

§749.1253. What must staff do to prepare a child for a placement?

Subchapter H, Foster Care Services: Admission and Placement

Division 5, Foster Care Placement

January 2007

(a) The child-placement staff must discuss with the child the circumstances that make the placement necessary, as appropriate to the child's age and ability to respond orally and behaviorally to such a discussion. The discussion must take place prior to or at the time of the placement of a child. [Medium-Low]

(b) You must document into the child's record:

(1) That the discussion occurred [Medium-Low]; and

(2) The child's understanding of and response to the discussions and the placement. [Medium-Low]

§749.1255. What information from an admission assessment must I share with the caregivers responsible for the child's care?

Subchapter H, Foster Care Services: Admission and Placement

Division 5, Foster Care Placement

January 2007

(a) In a non-emergency placement, you must share all information from the admission assessment with the foster parents or caregiver responsible for the child's care prior to placement. [Medium-High]

(b) In an emergency placement, you must share with the foster parents or caregiver responsible for the child's care:

(1) At the time of placement, all available information relating to the child's needs and your plans for care and management [Medium-High]; and

(2) Within 10 days of completing the admission assessment, all information from the admission assessment. [Medium-High]

(c) You must document the following in the child's record:

(1) The information you share with the caregiver [Medium-Low];

(2) Any information you do not share and the reason why you did not share the information [Medium]; and

(3) How the placement is capable of meeting the child's needs. [Medium-Low]

Division 6, Subsequent Placement

§749.1281. What are the requirements when I move a child from one foster home to another?

Subchapter H, Foster Care Services: Admission and Placement

Division 6, Subsequent Placement

September 2010

(a) If the move is not an emergency, child placement management staff must:

(1) Review and approve the move before you move the child to the new placement [Medium];

(2) Document the review and approval in the child's record, including signature and date [Medium-Low]; and

(3) Comply with the pre-placement requirements in §749.1251 of this title (relating to What are the requirements for pre-placement visits for a child?). [Medium]

(b) If the move is an emergency, child placement management staff must:

(1) Give verbal approval before the move [Medium]; and

(2) Document the verbal approval in the child's record within 10 days of the placement. Documentation must be signed and dated and include the date verbal approval was given and circumstances of the emergency placement. [Medium]

(c) For all moves, child placement staff must prepare a child according to §749.1253 of this title (relating to What must staff do to prepare a child for a placement?). [Medium]

Division 7, Post-Placement Contact

§749.1291. What are the requirements for contact between child placement staff and children in foster care?

Subchapter H, Foster Care Services: Admission and Placement

Division 7, Post-Placement Contact

January 2017

(a) Except for children receiving treatment services for primary medical needs, child placement staff must have monthly face-to-face contact with a child in care. However, staff can miss two visits per year, provided a child does not go longer than 60 days without a visit. [High]

(b) For children receiving treatment services for primary medical needs, child placement staff or a nurse must have face-to-face contact with a child in care twice every month with no more than 20 days between visits days. However, staff can miss two visits per year, provided a child does not go longer than 30 days without a visit. [High]

(c) At least half of the contacts must occur in the foster home. [Medium-High]

(d) These contacts are to ensure the:

(1) Child is safe [Medium-High];

(2) Needs of a child are being met [Medium-High]; and

(3) Placement continues to be appropriate. [Medium-High]

(e) If the child is able to communicate in a meaningful way, the contact with the child must:

(1) Be for a length of time sufficient to address the child's needs and determine the appropriateness of the placement [Medium-High];

(2) Provide an opportunity to meet in private [Medium-High]; and

(3) Provide an opportunity for the child to express feelings about how the placement is working out. [Medium-High]

(f) If the child is non-verbal or pre-verbal, the contact with the child must be for a length of time sufficient for an appropriate observation of the child and the child's placement, including an assessment of any changes in behavior or developmental progress or delays as well as a verification that the placement is meeting the child's needs as specified in the service plan. [Medium-High]

(g) The required contacts must be significant and must be documented in the child's record. The documentation in the child's record must be sufficient to address the requirements of subsections (e) and (f) of this section. [Medium]

(h) Child placement management staff must review and approve documentation of contacts. [Medium]

Technical Assistance
Quality visits should occur in an area free from distractions and where other household members may not overhear the conversation. For non-verbal or pre-verbal children, an appropriate observation may include observing a diaper change or seeing how the child interacts with a caregiver

Subchapter I, Foster Care Services: Service Planning, Discharge

Technical Assistance
You may combine admission and service plan documentation, as long as the documentation meets the content requirements and time frames required by the applicable minimum standards. For example, you may combine an admission assessment and initial service plan for a child admitted as an emergency admission, as long as the content of the document complies with both §749.1133 and §749.1309 and the document is complete within 40 days of admission. A preliminary service plan would still be needed within 72 hours of admission, per §749.1301.

Division 1, Service Plans

§749.1301. What are the requirements for a preliminary service plan?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 1, Service Plans

January 2017

(a) You must complete a preliminary service plan that addresses the immediate needs of the child within 72 hours, such as supervision requirements, such as enrolling the child in school or obtaining needed medical care or clothing. [Medium]

(b) In addition, for a child receiving treatment services the preliminary service plan must include:

(1) A description of the child's immediate treatment and care needs [Medium];

(2) A description of the child's immediate, educational, medical, and dental needs, including possible side effects of medications or treatment prescribed to the child [Medium];

(3) A description of how you will meet the child's needs, including any necessary increased supervision or follow-up actions of possible side effects of medication or treatment provided to the child [Medium];

(4) The identification of any issues or concerns the child may have that could escalate a child's behavior. Identification of a child's issues or concerns must serve to avoid the use of unnecessary emergency behavior interventions with the child. Child concerns may include issues with food, eye contact, physical touch, personal property, or certain topics [Medium-High]; and

(5) A designation of who will be responsible for meeting each of the child's needs. [Medium]

(c) The plan must be compatible with the information included in the child's admission assessment. [Medium-Low]

(d) You must document the plan in the child's record. [Medium-Low]

(e) You must inform each professional service provider and caregiver working with a child about the child's preliminary service plan. [Medium]

(f) You must implement and follow the preliminary service plan. [Medium]

Technical Assistance
It is a good idea to include in service plans specific information about the situations that trigger significant emotional responses for the child (e.g., enclosed spaces, darkness, bedtime), successful intervention strategies to effectively de-escalate those responses, anger and anxiety management options to assist the child in calming, techniques for self-management, and specific goals that address the targeted behaviors that most often lead to emergency behavior interventions for the child.

§749.1305. Who must be involved in developing the preliminary service plan?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 1, Service Plans

January 2007

The child placement staff must develop, sign, and date the preliminary service plan. [Medium-Low]

§749.1307. When must I complete an initial service plan?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 1, Service Plans

January 2017

You must complete the initial service plan within 45 days after you admit the child. [Medium]

§749.1309. What must a child's initial service plan include?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 1, Service Plans

September 2022

(a) You must base the child's initial service plan on the child's needs identified in the child's admission assessment and integrate trauma informed care in the care, treatment, and management of each child. The service planning team may prioritize the child's service planning goals and objectives based on the child's admission assessment. However, any required service plan components not initially addressed must have a justification for the delay in addressing the needs. [Medium]

(b) The child's initial service plan must be documented in the child's record and include those items that a preliminary plan must include (see §749.1301 of this title (relating to What are the requirements for a preliminary service plan?)), and the items noted below for each specific type of service that you provide the child [Medium]:

Type of Service	Items that must be included:
(1) Child-care services	(A) The child's needs identified in the admission assessment, in addition to basic needs related to day-to-day care and development, including [Medium]: (i) Medical needs, including scheduled medical exams and plans for recommended follow-up treatment [Medium]; (ii) Dental needs, including scheduled dental exams and plans for recommended follow-up treatment [Medium]; (iii) Intellectual functioning, including any testing and plans for recommended follow-up [Medium-Low]; (iv) Developmental functioning, including any developmental delays and plans to improve or remediate developmental functioning [Medium-Low];

Type of Service	Items that must be included:
	(v) Educational needs and how those needs will be met, including planning for high school completion and post-secondary education and training, if appropriate, and any school evaluations or recommendations [Medium-Low]; (vi) Plans for normalcy, including [Medium]: (I) Social, extracurricular, recreation, and leisure activities [Medium]; and (II) Integrating the child into the community and community activities, as appropriate [Medium]; (vii) Therapeutic needs, including plans for psychiatric evaluation, psychological evaluation, psychosocial assessment or follow-up treatment, testing, and the use of psychotropic medications [Medium-Low]; and (viii) Cultural identity needs, including assisting children in connecting with their culture in the community [Medium-Low]; (B) Plans for maintaining and improving the child's relationship with family members, including recommendations for visitation and contacts between the child and the child's parents, the child and the child's siblings, and the child and the child's extended family [Medium]; (C) Recent information from the current caregiver's evaluation of the child's behavior and level of functioning [Medium]; (D) Specific goals and strategies to meet the child's needs, including instructions to caregivers responsible for the care of the child. Instructions must include specific information about: (i) The child's personal trauma history [Medium]; (ii) Level of supervision required [Medium-High]; (iii) The child's trauma triggers [Medium]; (iv) Methods of responding that improve a child's ability to trust, to feel safe, and to adapt to changes in the child's environment [Medium]; (v) Discipline techniques [Medium-High]; (vi) Behavior intervention techniques [Medium-High]; (vii) Plans for trips and visits away from the foster home [Medium]; and (viii) Any actions the caregivers must take or conditions the caregivers must be aware of to meet the child's special needs,

Type of Service	Items that must be included:
	such as medications, medical care, dietary needs, therapeutic care, how to communicate with the child, and reward systems [Medium]; (E) If the child is 13 years old or older, a plan for educating the child in the following areas [Medium]: (i) Healthy interpersonal relationships [Medium]; (ii) Healthy boundaries [Medium]; (iii) Pro-social communication skills [Medium]; (iv) Sexually transmitted diseases [Medium]; and (v) Human reproduction [Medium]; (F) If the child is 14 years old or older, plans for the caregivers to assist the child in obtaining experiential life-skills training to improve the child's transition to independent living. Plans must [Medium]: (i) Be tailored to the child's skills and abilities [Medium]; and (ii) Include training in practical activities that include, but are not limited to, grocery shopping, meal preparation, cooking, using public transportation, performing basic household tasks, and money management, including balancing a checkbook [Medium]; (G) For children 16 years old and older, preparation for independent living, including employment opportunities, if appropriate [Medium]; (H) For children who exhibit high-risk behaviors or have a suicide risk screening that indicates a high or potential risk of suicide [Medium-High]: (i) Plans to minimize the risk of harm to the child or others, such as special instructions for caregivers, sleeping arrangements, or bathroom arrangements [High]; and (ii) A specific safety contract developed between the child, employees, and caregivers that addresses how the child's safety needs will be maintained [High]; (I) Expected outcomes of placement for the child and estimated length of stay in care [Low]; (J) Plans for discharge [Low]; (K) The names and roles of persons who participated in the development of the child's service plan [Low]; (L) The date the service plan was developed and completed [Low]; (M) The effective date of the service plan [Low]; and

Type of Service	Items that must be included:
	(N) The signatures of the service planning team members that were involved in the development of the service plan. [Low]
(2) Treatment services	For children receiving treatment services, the plan must address all of the child's waking hours and include [Medium]: (A) The child-care services planning requirements noted in paragraph (1) of this subsection (weight is the weight of the missing element, if any, noted in paragraph (1)); (B) A description of the emotional, behavioral, and physical conditions that require treatment services [Medium]; (C) A description of the emotional, behavioral, and physical conditions the child must achieve and maintain to function in a less restrictive setting, including any special treatment program or other services and activities that are planned to help the child achieve and to function in a less restrictive setting [Medium]; and (D) A list of emotional, physical, and social needs that require specific professional expertise, and plans to obtain the appropriate professional consultation and treatment for those needs. Any specialized testing, recommendations, or treatment must be documented in the child's record. [Medium]
(3) Treatment services for children with an intellectual disability	(A) The child-care and treatment services planning requirements noted in paragraphs (1) and (2) of this subsection (weight is the weight of the missing element, if any, noted in paragraphs (1) and (2)); (B) A minimum of one hour per day of visual, auditory and tactile stimulation to enhance the child's physical, neurological, and emotional development [Medium]; (C) An educational or training plan encouraging normalization appropriate to the child's functioning [Medium]; and (D) Career planning for older adolescents who are not receiving treatment services for a severe or profound intellectual disability. [Medium]
(4) Transitional Living Program	(A) Child-care service planning requirements noted in paragraph (1) of this subsection (weight is the weight of the missing element, if any, noted in paragraph (1)); (B) Plans for encouraging the child to participate in community life and to form interpersonal relationships or friendships outside the transitional living program, such as extra-curricular recreational activities [Medium];

Type of Service	Items that must be included:
	(C) Plans for education related to meal planning, meal preparation, grocery shopping, public transportation, searching for an apartment, and obtaining utility services [Medium]; (D) Career planning, including assisting the child in enrolling in an educational or vocational job training program [Medium]; (E) Money management and assisting the child in establishing a personal bank account [Medium]; (F) Assisting the child with how to access resources, such as medical and dental care, counseling, mental health care, an attorney, the police, and other emergency assistance [Medium]; (G) Assisting the child in obtaining the child's social security number, birth certificate, and a driver's license or a Department of Public Safety identification card, as needed [Medium]; and (H) Problem-solving, such as assessing personal strengths and needs, stress management, reviewing options, assessing consequences for actions taken and possible short-term and long-term results, and establishing goals and planning for the future. [Medium]

§749.1311. Who must be involved in developing an initial service plan?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 1, Service Plans

January 2017

(a) A service planning team must meet (e.g. face-to-face, video conference, or teleconference) to discuss and develop the service plan. The team must consist of [Medium]:

(1) At least one of the child's current caregivers [Medium];

(2) least one professional service provider who provides direct services to the child [Medium]; and

(3) If you are providing treatment services to the child, at least two of the following professionals [Medium]:

(A) A licensed professional counselor;

(B) A psychologist;

(C) A psychiatrist or physician;

(D) A licensed registered nurse;

(E) A licensed master's level social worker;

(F) A licensed or registered occupational therapist; or

(G) Any other person in a related discipline or profession that is licensed or regulated in accordance with state law.

(b) The child, if verbal and developmentally able to participate, the parents, and the foster parents must be invited to the service planning meeting and should participate and provide input into the development of the service plan, including discussions regarding the child's participation in childhood activities. [Medium]

§749.1312. Can the service planning team discuss and develop a child's service plan in separate meetings?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 1, Service Plans

January 2017

Yes, the service planning team may meet in one meeting, two or more meetings, or in separate meetings, provided that each service planning team member is informed of the discussions and comments regarding the child's service plan that were made at each meeting. [Medium-Low]

§749.1313. When must I inform the child's parents and foster parents of an initial service plan meeting?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 1, Service Plans

January 2017

(a) The child's parents and foster parents must have at least two weeks advance notice of the initial service plan meeting. [Low]

(b) The child's record must include documentation of the notice and any responses from the parents and foster parents. [Low]

§749.1315. Must a professional service provider or a professional **who must participate in a child's service plan be an employee of my** agency?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 1, Service Plans

January 2007

No. You may employ or contract with a professional service provider or any other professional who participates in a child's service plan.

§749.1317. What roles do professional service providers have in service planning?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 1, Service Plans

January 2017

The roles of professional service providers in service planning include:

Type of Treatment Service	The roles of professional level service providers in service planning include:
(1) Emotional disorder and autism spectrum disorder	(A) Reviewing the child's diagnoses [Medium]; (B) Reviewing the identified needs and the plan for treatment based on the child's diagnoses [Medium]; (C) Reviewing the techniques, strategies, and therapeutic interventions that are planned for the child to improve adaptive functioning [Medium]; and (D) Reviewing any medications prescribed for a child with special review of psychotropic medications; the presence or absence of medication side effects, including the effects of the medications on the child's behavior; laboratory findings; and any reason the child should not use a medication. [Medium]

Type of Treatment Service	The roles of professional level service providers in service planning include:
(2) Intellectual disability	(A) Assessing the child's educational needs and progress toward meeting those needs [Medium-Low]; (B) Ensuring coordination between educators, caregivers, operation employees, and other professionals involved in the child's treatment [Medium]; and (C) Providing information to the education system on the strategies and techniques used with the child in the agency. [Medium]
(3) Primary medical needs	(A) Reviewing medications prescribed for a child [Medium]; (B) Recommending special equipment needed by a child [Medium]; and (C) Reviewing special instructions and training to caregivers for the daily care of the child. [Medium]

§749.1319. What must I document regarding a professional service **provider's participation in the development of an initial service plan?**

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 1, Service Plans

January 2007

(a) You must document the professional service provider's:

(1) Name [Low]; and

(2) Date of participation. [Low]

(b) The professional service provider must sign and date the document. If the provider disagrees with any portion of the plan, the provider must document the issue(s) of contention before signing it. [Low]

§749.1321. With **whom do I provide a copy of the child's initial** service plan?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 1, Service Plans

January 2017

(a) You must give a copy or summary of the initial service plan to the:

(1) Child, when appropriate. At a minimum, you must give a copy or summary of the plan to a child 14 years of age or older, unless there is justification for not providing the plan [Low];

(2) Child's parents [Low]; and

(3) Child's caregivers. [Medium]

(b) If you provide a copy or summary of the initial service plan to a child:

(1) The child must review the plan [Low];

(2) The child must sign the plan, or you must document the child's refusal to sign it [Low]; and

(3) You must document if the child disagrees with the plan. [Low]

(c) If you do not provide a copy or summary of the initial service plan to a child, you must document your justification for not sharing the plan in the child's record. [Low]

(d) You must document in the child's record that you provided a copy or summary of the initial service plan to the child's parents. [Low]

§749.1323. When must I implement a service plan?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 1, Service Plans

January 2017

You must implement and follow an initial service plan as soon as all of the service planning team members have reviewed and signed the plan, but no later than 15 days after the date of the scheduled service-planning meeting involving the parents, foster parents, and the child. [Medium-Low]

Division 2, Service Plan Review and Updates

§749.1331. How often must I review and update a service plan?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 2, Service Plan Reviews and Updates

January 2017

Except for when the child's placement within your agency changes because of a change in the child's needs, you must review and update the service plan as follows:

Weight	Type of Service	Review and Update
[Medium-Low]	(1) Child-care services	At least 180 days from the date of the child's last service plan.
[Medium-Low]	(2) Treatment services for emotional disorder, autism spectrum disorder, or primary medical needs	At least 90 days from the date of the child's last service plan.
[Medium-Low]	(3) Treatment services for intellectual disabilities	In the first year of care, the plan must be reviewed at least every 180 days from the date of the child's last service plan. Thereafter, the plan must be reviewed at least annually from the date of the child's last service plan review.

§749.1333. How does a child's transfer affect the timing of the review of the child's service plan?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 2, Service Plan Reviews and Updates

January 2007

(a) You must review a child's service plan whenever the child's placement changes because of a change in the child's needs. [Medium]

(b) If the child's placement changes for another reason:

(1) The child' service planning team must approve the decision not to review the plan [Medium-Low]; and

(2) You must document the decision not to review the plan. [Medium-Low]

§749.1335. How do I review and update a service plan?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 2, Service Plan Reviews and Updates

January 2017

To review and update a service plan, you must:

(1) Evaluate the child's progress and the effectiveness of strategies and techniques used toward meeting identified needs, including educational progress reports and medical interventions [Medium];

(2) Identify any new needs and strategies or techniques to meet these needs, including instructions to appropriate employees and caregivers [Medium];

(3) Document any achieved or changed objectives [Medium];

(4) If the review shows no progress towards meeting the identified needs of the child, document reasons for continued placement [Medium-Low];

(5) Evaluate the possible effectiveness and side effects in the use of psychotropic medications prescribed for the child, any change in psychotropic medications during the period since the last review, and the behaviors and reactions of the child observed by caregivers, professional service providers, and parents, if applicable [Medium];

(6) Document visitation and contacts between the child and the child's parents, the child and the child's siblings, and the child and the child's extended family [Medium-Low];

(7) Update the estimated length-of-stay and discharge plans, if changed [Medium-Low];

(8) Evaluate the use and effectiveness of emergency behavior intervention techniques, if used, since the last service plan. If applicable, this evaluation must focus on [Medium-High]:

(A) The frequency, patterns, and effectiveness of types of emergency behavior interventions [Medium];

(B) Strategies to reduce the need for emergency behavior interventions overall [Medium]; and

(C) Specific strategies to reduce the need for use of personal restraints or emergency medication, as applicable [Medium-High];

(9) Document in the child's record the review and update of the plan [Medium-Low]; and

(10) Document the names of the persons participating in the review and update. [Medium-Low]

§749.1336. Can the child-placing agency continue to review and **update a child's previous service plan without creating a new service** plan?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 2, Service Plan Reviews and Updates

January 2017

Yes, a single service plan that continues throughout the time a child is in residential child care is acceptable, as long as you:

(1) Complete a preliminary service plan as required by §749.1301 of this title (relating to What are the requirements for a preliminary service plan?) each time a child is admitted into your care; and

(2) Continue to comply with the service plan review and update requirements in this Division of this Subchapter (relating to Service Plan Reviews and Updates).

§749.1337. Are the notification, participation, implementation, and documentation requirements for a service plan review and update the same as for an initial service plan?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 2, Service Plan Reviews and Updates

January 2007

Yes, the same requirements found in Division 1 of this subchapter (relating to Service Plans) apply to a service plan review and update. [Medium-Low]

§749.1339. How often must I re-evaluate the intellectual functioning of a child receiving treatment services for intellectual disabilities?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 2, Service Plan Reviews and Updates

January 2017

(a) Each child's intellectual functioning must be re-evaluated at least every three years by a psychologist qualified to provide psychological testing [Medium-Low]; or

(b) A psychologist must determine the need and frequency for a specific child's intellectual functioning to be re-evaluated, such as a young child who may require more frequent testing. This determination, including justification for the time frame, must be documented in the child's record annually by the service planning team. [Medium-Low]

Division 3, Discharge and Transfer Planning

Technical Assistance
If you suspect the person picking up a child is under the influence of drugs or alcohol, you have the option of contacting local law enforcement to request their assistance. You may not legally prevent the child from being picked up by a parent or person designated by the parent; however, you have the option of addressing this issue at admission by asking parents what they would like for you to do if you do not feel comfortable releasing the child to one of the parents or their designee and signing an agreement to this effect. Law enforcement officers and DFPS Child Protective Services staff have the authority by law to remove a child without a parent's permission. You may want to ask to see identification of persons you do not know.

§749.1361. What does a "transfer" of a child in care mean?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 3, Discharge and Transfer Planning

September 2010

A transfer refers to a child in care who is moved from one of your programs to another one of your programs operated under the same permit or at the same location. For example, a child may transfer from one foster home in which he was receiving treatment services to another foster home that offers a transitional living program. A child may also transfer from your child- placing agency to your general residential operation, if your child-placing agency office is located on the same property as your general residential operation. This term does not apply if the child experiences a change in programs or services but remains in the same foster home. This term also does not apply if the child moves from one foster home to another for a reason other than a need for different services/programming, such as moving to be closer to siblings.

Technical Assistance
A transfer must comply with §§749.1363, 749.1365, and 749.1367. A transfer does not require: ● A discharge summary ● An admission assessment ● A preliminary or initial service plan See §749.1333 regarding service plan updates related to transfers.

Technical Assistance
Movement from one foster home to another within the same child-placing agency is only considered a transfer when the primary reason for the move is to provide the child with programmatic or treatment services not offered in the child's current foster home but offered in the foster home to which the child is moving. Moves for other reasons, such as the foster parents deciding to relinquish their verification, are regulated as subsequent placements

§749.1363. Who must plan a child's non-emergency discharge or transfer?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 3, Discharge and Transfer Planning

January 2017

(a) You must involve at least the following persons in planning the child's non-emergency discharge or transfer:
  (1) At least one of the child's current caregivers [Medium-Low]; and
  (2) At least one professional service provider involved in the child's service planning. [Medium-Low]

(b) You must invite the following persons to participate in planning the child's non-emergency discharge or transfer, if appropriate:
  (1) The child [Medium-Low];
  (2) The child's parent(s) [Medium-Low]; and
  (3) Any other person pertinent to the child's care. [Low]

(c) If you are unable to plan the transfer or discharge with the persons required in subsections (a) and (b) of this section, you must document in the child's record the reason why. [Low]

(d) If a child in your care is not receiving treatment services, you must inform the child of the non-emergency discharge or transfer at least four days prior to the date of the discharge or transfer, unless your licensed child-placing agency administrator or child placement management staff has clear justification for not giving the child such notice. The licensed child-placing agency administrator or child placement management staff who determines the justification for the child not having the advance notice of the discharge or transfer, must put the justification in writing and sign and date it. The justification must be in the child's record. [Medium-Low]

(e) If a child in your care is receiving treatment services, you must inform the child of the non-emergency discharge or transfer at least four days prior to the date of the discharge or transfer, unless your treatment director, three members of

the child's service planning team, or the child's psychiatrist or psychologist has a justification for not giving the child such notice. Whoever determines the justification for the child not having the advance notice of the discharge or transfer must put the justification in writing and sign and date it. The justification must be in the child's record. [Medium-Low]

§749.1365. May a foster home release a child to any person without my consent?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 3, Discharge and Transfer Planning

January 2007

No, the foster home must not release a child to any person without your consent. [High]

§749.1367. To whom can I discharge a child in a non-emergency situation?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 3, Discharge and Transfer Planning

January 2007

You must discharge a child to the child's parent or to anyone with written authorization from the parent or a person authorized by the court or by law to assume custody of the child. [High]

§749.1369. How do I discharge or transfer a child who is an immediate danger to self or others?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 3, Discharge and Transfer Planning

January 2017

The child's caregiver(s) or the child placement staff must accompany the child to the receiving operation, agency, or person unless the child's parent or law enforcement transports the child. [Medium-High]

§749.1371. What must I document in the child's record at the time of a discharge or transfer?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 3, Discharge and Transfer Planning

January 2017

At the time of a discharge or transfer, you must document the following:

(1) The date and circumstances of the discharge or transfer [Low];

(2) Date and time the child was informed of his discharge or transfer, if applicable [Low];

(3) For discharge, the name, address, telephone number and relationship of the person to whom you discharge the child, unless the child legally consents to a discharge. If the child legally consents to a discharge and does not want to involve the child's parent(s), you must document this in the child's record [Medium-Low];

(4) The child's service plans while in your care for the past 12 months [Medium-Low];

(5) A list of medications the child is taking, the dosage, frequency, and reason the medication was prescribed [Medium-Low];

(6) Any treatment for a physical condition that is in progress and requires continuing or follow-up medical care [Medium-High]; and

(7) For emergency discharge or transfer, the explanation given to the child regarding the reason for the discharge or transfer and the child's reaction to the discharge or transfer. [Medium-Low]

§749.1373. When I discharge a child, what information must I provide to the next placement or caregiver?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 3, Discharge and Transfer Planning

September 2010

(a) On or before the child's discharge, you must attempt to obtain legal consent to release the information in subsection (b) of this section. If consent is not obtained, your attempt to obtain consent must be documented in the child's record. If consent is obtained, the information must be provided to the receiving placement or caregiver within 15 days of the date the child is discharged. [Medium-Low]

(b) If not already provided at the time of discharge, copies of the following documentation must be provided to the next placement or caregiver:

(1) A written discharge summary, which must include [Medium-Low]:

(A) Services provided to the child while in your care [Medium-Low];

(B) Accomplishments of the child while in your care [Medium-Low];

(C) An assessment of the child's remaining needs [Medium-Low];

(D) Recommendations about the services to meet the child's remaining needs [Medium-Low];

(E) Support resources for the child, including telephone numbers and addresses [Medium-Low]; and

(F) Aftercare plans and recommendations for the child, including medical, psychiatric, psychological, dental, educational, and social appointments [Medium-Low];

(2) The child's background information, including progress notes for the past 60 days if applicable [Medium-Low];

(3) Any unresolved incidents or investigations involving the child, if applicable [Medium-Low]; and

(4) Assessments and/or evaluations that you have performed for the child, including the child's admission assessment, diagnostic assessment, educational assessment, neurological assessment, and psychiatric or psychological evaluation. [Medium-Low]

§749.1377. What constitutes an emergency discharge or transfer?

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 3, Discharge and Transfer Planning

January 2007

An emergency transfer or discharge occurs when:

(1) The parent withdraws a child unexpectedly from care;

(2) There is a medical emergency requiring inpatient care;

(3) The child is absent from the home and cannot be located; or

(4) There is an immediate danger to the child or others and you determine that you cannot serve the child.

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

§749.1401. What general medical requirements must my agency meet?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

January 2017

(a) A child in your care must receive medical care:

(1) Initially, according to the requirements in §749.1151 of this title (relating to What are the medical requirements when I admit a child into care?) [Medium-High];

(2) As needed for injury, illness, and pain [High]; and

(3) As needed for ongoing maintenance of medical health. [Medium-High]

(b) The child's record must include a written record of each medical examination that consists of [Medium]:

(1) A copy of the results of the medical examination [Medium];

(2) The follow-up treatment recommended and any appointments scheduled [Medium];

(3) A notation of the child's refusal to accept medical treatment, if applicable [Medium];

(4) If the medical examination is a result of an injury or illness, the documentation of the date, time, and circumstances surrounding the injury or illness [Medium]; and

(5) Any other documentation provided by the health-care professional who performed the examination. [Medium]

(c) For a child in the conservatorship of the department, you must supplement any information already documented in the child's health passport in order to comply with subsection (b) of this section. In your written record for the child, you are not required to repeat information that is already in the child's health passport. [Medium]

(d) You must obtain follow-up medical treatment as recommended by the health-care professional. [Medium-High]

Technical Assistance
If there is no date by which to obtain follow-up treatment, then if necessary the follow-up should be done as soon as practical and integrated into the next service plan review.

§749.1403. Who determines the need and frequency for ongoing maintenance of medical care and treatment for a child?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

January 2007

A health-care professional determines the need and frequency for ongoing maintenance of medical care and treatment for a child. [Medium-High]

§749.1405. Who must perform medical care examinations and provide medical treatment for a child?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

January 2007

A health-care professional licensed in the United States to practice in an appropriate medical or health-care discipline must perform medical care examinations and provide medical treatment for a child. [Medium-High]

§749.1409. What general dental requirements must my agency meet?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

January 2017

(a) A child in your care must receive dental care:

(1) Initially, according to the requirements in §749.1153 of this title (relating to What are the dental requirements when I admit a child into care?) [Medium];

(2) At as early an age as necessary [Medium];

(3) As needed for relief of pain and infections [Medium-High]; and

(4) As needed for ongoing maintenance of dental health. [Medium-High]

(b) The child's record must include a written record of each dental examination that consists of [Medium-Low]:

(1) A copy of the results of the dental examination. [Medium-Low]

(2) Follow-up treatment recommended and any appointments scheduled [Medium-Low]; and

(3) A notation of the child's refusal to accept dental treatment, if applicable. [Medium-Low]

(c) For a child in the conservatorship of the department, you must supplement any information already documented in the child's health passport in order to comply with subsection (b) of this section. In your written record for the child, you are not required to repeat information that is already in the child's health passport. [Medium-Low]

(d) You must obtain follow-up dental work indicated by the examination, such as treatment of cavities and cleaning. [Medium-High]

§749.1411. Who must determine the frequency and need for ongoing maintenance of dental health for a child?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

January 2007

A licensed dentist must determine the frequency and need for ongoing maintenance of dental health for a child. You must comply with dentist recommendations for examinations and treatment for each child. [Medium]

§749.1413. Who must perform dental examinations and provide dental treatment?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

January 2007

A health-care professional licensed in the United States to practice dentistry must provide dental care. [Medium]

§749.1415. What health precautions must I take if a person in care, employee, caregiver, someone else in one of my foster homes, or someone else in my agency has a communicable disease?

Subchapter J, Foster Care Services: Medical and Dental

(a) You must notify the Department of State Health Services (DSHS) after you become aware that a person in your care, an employee, a contract service provider, a caregiver, someone else in one of your foster homes, or a volunteer has contracted a communicable disease that the law requires you to report to the DSHS as specified in 25 TAC §97, Subchapter A (relating to Control of Communicable Diseases). [Medium-High]

(b) If a person in your care has symptoms of a communicable disease that is reportable to the DSHS, you must:

(1) Consult a health-care professional about the person's treatment [Medium-High];

(2) Follow the treating physician's orders, which may include separating the person from others [Medium-High];

(3) Notify the person's parent, if applicable [Medium-Low]; and

(4) Sanitize all items used by the sick person before another person uses one of them. [Medium-High]

(c) If a health-care professional diagnoses a person in your care with a communicable disease that is reportable to DSHS, a health-care professional must authorize the person's participation in any routine activities at the foster home. The authorization must [Medium-High]:

(1) Be in the person's record [Medium];

(2) Include a written statement that the person will not pose a serious threat to the health of others [Medium]; and

(3) Include any specific instructions and precautions to be taken for the protection of others, if necessary. [Medium]

(d) If an employee, a contract service provider, a caregiver, someone else in one of your foster homes, or a volunteer has a communicable disease that is reportable to Department of State Health Services (DSHS), you must obtain written authorization from a health-care professional for the person to be present at the agency or foster home. The written authorization must include a statement that the person will not pose a serious threat to the health of others. [Medium]

(e) You must follow any written instructions and precautions specified by a health-care professional. [Medium-High]

Technical Assistance
Communicable diseases that exclude a child from routine activity are defined by the Department of State Health Services (DSHS) in 25 TAC §97.7 (relating to Diseases Requiring Exclusion from Child-Care Facilities and Schools). You can obtain this information from the Department of State Health Services

§749.1417. Who must have a tuberculosis (TB) examination?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

September 2010

(a) All persons over the age of one year old must have a documented tuberculosis screening that was conducted as recommended by the Center for Disease Control (CDC) within 30 days before or after beginning to live, work, or volunteer at your operation unless the person [Medium]:

(1) Has lived, worked, or volunteered at a regulated residential child-care operation within the previous 12 months. For example, an employee beginning employment in a regulated residential child-care operation for the first time would need a baseline tuberculosis screening. Employment in a different residential child-care operation would not require a new screening, as long as documentation in paragraph (2) of this subsection is also provided. If the employee left employment in regulated residential child-care for more than 12 months and then returned, a new screening would be required; and

(2) Provides documentation of a tuberculosis screening.

(b) Documentation must consist of a copy of the results of the baseline tuberculosis screening or chest radiograph, which must be in the person's record at your operation within 40 days of the person beginning to live, work, or volunteer at your operation. Documentation of a copy of the results of treatment (if treatment is required) must also be maintained in the person's record. For a child in DFPS conservatorship, documentation in the child's health passport is sufficient. [Medium-Low]

(c) Except on the advice of a physician, no additional screening is required for a person who continues to live, work, and/or volunteer in a regulated residential child-care setting.

Technical Assistance

Current CDC recommendations are as follows:

- Conduct a baseline tuberculosis screening. This screening includes a two-step tuberculosis skin test or a single blood assay for mycobacterium tuberculosis to test for infection with mycobacterium tuberculosis.
- After the initial baseline screening is conducted and shows negative for tuberculosis, no other testing is required as long as the person continues to live, work, or volunteer in a regulated residential child-care operation.
- In any of the following circumstances, use a chest radiograph to exclude TB disease:
    - The person's baseline screening shows positive,
    - The result shows a mycobacterium tuberculosis infection, or
    - There is documentation of treatment for latent tuberculosis infection or tuberculosis disease.

Obtain the chest radiograph within a six-month period from the initial baseline screening. Repeat radiographs are not needed unless symptoms or signs of TB disease develop, unless recommended by a physician, or unless the person ceases to live, work, or volunteer in a regulated residential child-care operation for more than 12 months.

§749.1421. What immunizations must a child in my care have?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

January 2017

(a) Each child that you admit must meet and continue to meet applicable immunization requirements as specified by the Department of State Health Services. [Medium-High]

(b) You must maintain current immunizations records for each child in your care, including any immunization exemptions or exceptions. [Medium-Low]

(c) Unless the child is exempt from immunization requirements, all immunizations required for the child's age must [Medium-High]:

(1) Be completed by the date of admission; or

(2) Begin within 30 days after admission.

Technical Assistance
The current immunization requirements can be found at http://www.immunizetexas.com , and: • For children 0 through 43 months click on "School Requirements", click on "Main Page", to the right of the page click on "Child-Care Facilities", and click on "2015-2016 Texas Minimum State Vaccine Requirements for Child-Care Facilities"; • For children 44 months through 18 years click on "School Requirements", click on "Main Page", to the right of the page click on "Schools", and click on "2015-2016 Texas Minimum State Vaccine Requirements for Students Grades K-12".

§749.1423. What exemptions or exceptions are there concerning immunization requirements?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

January 2017

(a) A child may be exempt from immunization requirements for a medical reason and reason of conscience, including a religious belief. To claim an exemption, the person applying for the child's admission must meet criteria specified by [Medium]:

(1) §42.043(d) and (d-1) of the Human Resources Code; or

(2) The Department of State Health Services rule in 25 TAC §97.62 (relating to Exclusions from Compliance).

(b) For some diseases, a child who previously had a disease and is accordingly naturally immune from it may qualify for an exception to the immunization requirements for the disease. To claim this exception, the person applying for the child's admission must meet the criteria specified by the Department of State Health Services rule in 25 TAC §97.65 (relating to Exceptions to Immunization Requirements).

Technical Assistance
• You can find more information regarding the Department of State Health Services' exemptions at http://www.dshs.state.tx.us/immunize/default.shtm, click on "School Requirements", click on "Main Page", and to the right of the page click on "Exclusions from Immunization Requirements". • While exemptions that comply with HRC §42.043(d) and (d-1) may be used by the person applying for the child's admission into a CPA, these exemptions may not comply with the school exemption requirements.

§749.1425. What documentation is acceptable for an immunization record?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

January 2017

Acceptable documentation includes:

(1) An official immunization record generated from a state or local health authority, including a record from another state. Examples include a registry, a copy of the current immunization record that is on file at the pre-kindergarten program or school, or the health passport for a child in the conservatorship of DFPS, so long as the record includes [Medium]:

(A) The child's name and date of birth [Medium-Low];

(B) The type of vaccine and number of doses [Medium-Low]; and

(C) The month, day, and year the child received each vaccination [Medium-Low]; or

(2) An official immunization record or photocopy, such as from a doctor's office, that includes [Medium]:

(A) The child's name and date of birth [Medium-Low];

(B) The type of vaccine and number of doses [Medium-Low];

(C) The month, day, and year the child received each vaccination [Medium-Low];

(D) The signature (including a rubber stamp or electronic signature) of the health-care professional who administered the vaccine, or another health-care professional's documentation of the immunization as long as the name of the health-care professional that administered the vaccine is documented [Medium-Low]; and

(E) Clinic contact information, if the immunization record is generated from an electronic health record system. [Medium-Low]

§749.1427. Must children in my care have a vision and hearing screening?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

September 2010

(a) You must ensure that each child you admit is screened for possible vision and hearing problems that meet the requirements of the Special Senses and Communication Disorders Act, Health and Safety Code, Chapter 36. If problems are detected, the child must have a professional vision and hearing examination. [Medium]

(b) For each child required to be screened, you must keep one of the following in each child's record [Medium-Low]:

(1) The individual vision and hearing screening results; however, results found in the child's health passport if the child is in DFPS conservatorship are sufficient to meet this requirement;

(2) A signed statement from the child's parent that the child's screening records are current and on file at the program or school the child attends away from the agency. The statement must be dated and include the name, address, and telephone number of the program or school; or

(3) An affidavit from the child's parent stating that the vision or hearing screening and/or examination conflicts with the tenets or practices of a church or religious denomination of the parents.

Technical Assistance
You can refer to the Health and Safety Code, §36.011, for specific information on vision and hearing screening, including determining which children must be screened and the timeframes for screening. This information may be accessed on the Department of State Health Services' website at: www.dshs.state.tx.us/vhs/.

§749.1429. What must I do if a child in my care is identified as needing a diagnostic vision or hearing examination?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

January 2007

You must:

(1) Schedule the child for professional examination and needed health services [Medium];

(2) Ensure the professional and medical recommendations are carried out [Medium]; and

(3) Convey the information concerning the child's visual and/or hearing difficulty to the educational and agency caregivers, so the recommended adjustments can be made in programs. [Medium]

§749.1431. What special equipment must I provide for a child with a physical disability?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

January 2007

When recommended by a physician or other health-care professional, you must ensure that a child with a physical disability has any special equipment recommended that can be reasonably obtained. [Medium-High]

§749.1433. How often must the physician review a child's primary medical needs?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

January 2017

(a) A licensed physician must review a child's primary medical needs:

(1) At least every 90 days or on a schedule recommended by the child's physician [Medium-High]; and

(2) Whenever a medical or related problem occurs. [Medium-High]

(b) The review must address:

(1) Whether the child can continue to be cared for appropriately in the foster home [Medium-High]; and

(2) Any new or changed orders regarding the items outlined in §749.1135 of this title (relating to What are the additional admission requirements when I admit a child for treatment services?). [Medium-High]

(c) Documentation of each physician review must be filed in the child's record. [Medium]

§749.1435. What are the requirements for using a nasogastric tube?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

January 2007

(a) Only the following may insert a nasogastric tube [High]:

(1) A physician;

(2) A licensed nurse according to a physician's written orders; or

(3) A caregiver instructed by a licensed nurse according to a physician's written orders.

(b) The caregiver must document each insertion in the child's record. The documentation for each insertion must include the [Medium]:

(1) Signature of the nurse or caregiver who inserted the tube [Medium]; and

(2) Date of the insertion. [Medium]

(c) The caregiver must follow the physician's written orders concerning the tube. [High]

§749.1437. How must a caregiver respond when a child is injured or ill and requires immediate treatment by a health-care professional?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

April 2022

For an injury or illness that requires immediate treatment by a health-care professional, the caregiver must immediately have the child treated by a healthcare professional, contact emergency services, or take the child to the nearest emergency room after ensuring the supervision of any other children present. Th caregiver must not be required to seek approval to contact emergency services or to take the child to the nearest emergency room. [High]

Division 2, Administration of Medication

§749.1461. What consent must I obtain to administer medications?

Subchapter J, Foster Care Services: Medical and Dental

Division 2, Administration of Medication

January 2007

(a) You must obtain a general written consent to administer routine, preventive, and emergency medications. [Medium]

(b) You must obtain a written, signed, and dated consent, specific to the psychotropic medication to be administered, from the person legally authorized to give medical consent before administering a new psychotropic medication to a child, per §749.1603 of this title (relating to If my agency employs or contracts with a health-care professional who prescribes psychotropic medications to a child in care, what information must I provide the person legally authorized to give consent before requesting his consent for the child to be placed on psychotropic medication?) or §749.1605 of this title (relating to If my agency does not employ or contract with the health-care professional who prescribes psychotropic medications to a child in care, what information must I provide the person legally authorized to give medical consent prior to the health-care professional prescribing psychotropic medications to a child in care?). [Medium]

§749.1463. What are the requirements for administering prescription medication?

Subchapter J, Foster Care Services: Medical and Dental

Division 2, Administration of Medication

January 2017

(a) To the best of their knowledge, caregivers must inform the person legally authorized to give medical consent of the benefits, risks, and side effects of all prescription medication and treatment procedures used and the medical consequences of refusing them, and/or provide the name and telephone number of the prescribing health-care professional for more information. [Medium]

(b) For prescription medications, caregivers must:

(1) Be informed about possible side effects of medications administered to the child [High];

(2) Store all medication in the original container unless the caregiver has an additional container with the same label and instructions [Medium-High];

(3) Administer all medications according to the instructions on the label or according to a prescribing health-care professional's subsequent signed orders [Medium-High];

(4) Administer each child's medication within one hour of preparation [Medium-High];

(5) Ensure the child has taken the medication as prescribed [High];

(6) Ensure a person trained in and authorized to administer medication administers the medication to a child in care unless the child is on a self-medication program [Medium-High];

(7) Maintain any documentation provided by the health-care professional on the administration of current medication [Medium];

(8) Not physically force a child to take medication [High];

(9) Ensure that a child is not given any medication or treatment except on written orders of a health-care professional [High];

(10) Not borrow or administer medication to a child that is prescribed to another person [High]; and

(11) Not administer medication to more than one child from the same container. Only the child for whom the medication was prescribed may use the medication. [High]

§749.1469. What are the requirements for administering non-prescription medication and supplements?

Subchapter J, Foster Care Services: Medical and Dental

Division 2, Administration of Medication

April 2022

(a) For non-prescription medications and supplements, you must:

(1) Follow the label instructions for dosage [High]; and

(2) Ensure that the non-prescription medication or supplement is not contraindicated with any other medication prescribed for the child or medical condition that the child has. [Medium-High]

(b) You may give non-prescription medication or supplements to more than one child from one container.

Technical Assistance
Regarding subsection (a), the consultations regarding routine over-the-counter medications may occur at times when medications are being prescribed.

Division 3, Self-Administration of Medication

§749.1501. What are the requirements for a self-medication program?

Subchapter J, Foster Care Services: Medical and Dental

Division 3, Self-Administration of Medication

September 2010

For a child to be on a self-medication program:

(1) The child's parent must give written authorization for the child to be on the program [Medium];

(2) The child's service plan must include the self-medication program and any requirements for caregiver supervision [Medium]; and

(3) The health-care professional who prescribed the medication must be consulted and any concerns of the health-care professional documented in the child's record. [Medium-High]

§749.1503. Who must record the medication dosage if the child is on a self- medication program?

Subchapter J, Foster Care Services: Medical and Dental

Division 3, Self-Administration of Medication

January 2017

When a child who is on a self-medication program takes a dosage of the medication, you must ensure there is a system for reviewing the child's medication each day and that the child either [Medium]:

(1) Records the daily dosage; or

(2) Reports the medication to a caregiver, who must then do the actual daily recording.

Division 4, Medication Storage and Destruction

§749.1521. What medication storage and destruction requirements must a foster home meet?

Subchapter J, Foster Care Services: Medical and Dental

Division 4, Medication Storage and Destruction

January 2017

A foster home must:

(1) Store medication in a locked container [High];

(2) Keep medication inaccessible other than to caregivers responsible for stored medication [High];

(3) Store medication covered by Schedule II of the Texas Controlled Substances Act under double lock in a separate container. For example, a double lock can include a lock on the cabinet or filing cabinet and the door to the closet where medications are stored [High];

(4) Make provisions for storing medication that requires refrigeration [Medium-High];

(5) Keep medication storage area(s) clean and orderly [Medium];

(6) Remove discontinued medication immediately and store it in a separate locked area until it is destroyed within 30 days [Medium-High];

(7) Remove medication on or before the expiration date and store it in a separate locked area until it is destroyed within 30 days [Medium-High];

(8) Remove medication of a discharged or deceased child immediately and store it in a separate locked area until it is destroyed within 30 days [Medium-High]; and

(9) Provide prescription medication to the person to whom a child is discharged or transferred if the child is taking the medication at that time. [Medium-High]

Division 5, Medication Records

§749.1541. What records must caregivers maintain for each child receiving medication?

Subchapter J, Foster Care Services: Medical and Dental

Division 5, Medication Records

January 2017

(a) Caregivers must maintain a cumulative medication record of all [Medium-High]:

(1) Prescription medication dispensed to each child; and

(2) Nonprescription medications and supplements that are dispensed to a child under five years old.

(b) The cumulative medication record must be updated within 24 hours of administering medication. [Medium]

(c) Caregivers must maintain the medication record, which must include:

(1) Child's full name [Medium-High];

(2) Prescribing health-care professional's name, if applicable [Medium];

(3) Reason medication was prescribed, for prescription medication [Medium];

(4) Medication name, strength, and dosage [Medium-High];

(5) Date (day, month, and year) and the time the medication was administered [Medium-High];

(6) Name and signature of the person who administered the medication [Medium];

(7) Child's refusal to accept medication, if applicable [Medium]; and

(8) Reasons for administering the medication, including the specific symptoms, condition, and/or injuries of the child that the caregiver is treating, only for [Medium-High]:

(A) PRN psychotropic medication; and

(B) Nonprescription medications and supplements for children under five years old.

(d) Caregivers must document in the medication record each non-prescription medication or supplement that is given to the child and how often the child receives the medication or supplement. [Medium]

(e) Caregivers must document any prohibited prescription medications (for example, medication allergies or contraindications) or prohibited nonprescription medications and supplements in the medication record. [Medium-High]

(f) You must incorporate the medication record into the child's record. [Medium-Low]

Technical Assistance
Documenting the time a medication is given: For medications with regularly scheduled doses, you may use the regularly scheduled time to document giving the medication as long as it is given within thirty minutes of the scheduled time. Otherwise, you must document the actual time the medication is given. Example: For a regularly scheduled 9:00 a.m. medication given at 9:20, you may document 9:00 a.m.; if the medication is given at 9:45, then you must document: 9:45 a.m. If you document the time by initialing the regularly scheduled time (pre-printed on the form), there must be space on the form to document the time given when it is outside the 30-minute window. For medications that are PRN or one-time only, you must document the exact time the medication is given. Documenting the name and signature of the person who administered a medication: The purpose of the signature is to be able to identify the person who administered a specific medication to a child, if a concern arises later about that medication. Licensing requires one full signature for each person who administers medication, but there is no need for the person to record a full signature for each dose of medication that he/she administers. Most medication records provide space for a signature and matching initials (usually at the bottom of the page or on the back), then only require a person to use his/her initials to record each time he/she actually gives a dose of medication. Using this system, the initials can be matched to the signature as needed. This complies with minimum standards.

§749.1543. Where must a child's medication records be maintained?

Subchapter J, Foster Care Services: Medical and Dental

Division 5, Medication Records

September 2010

(a) The foster parents must maintain at the foster home the child's medication records for the current month. [Medium-Low]

(b) Foster parents must submit copies of the child's medication records to you each month. You must file these medication records in the child's record. [Medium-Low]

(c) You must maintain copies of all the child's medication records for the length of time that you provide services to the child. [Medium-Low]

§749.1545. What other requirements must I meet regarding medication records?

Subchapter J, Foster Care Services: Medical and Dental

Division 5, Medication Records

January 2007

You must make suitable forms available to caregivers for maintaining adequate records of all medications administered to a child. [Low]

Division 6, Medication and Label Errors

§749.1561. What is a medication error?

Subchapter J, Foster Care Services: Medical and Dental

Division 6, Medication and Label Errors

January 2007

A medication error includes, but is not limited to, the following:

(1) A child receives the wrong medication;

(2) A child receives medication prescribed to someone else;

(3) A child receives the wrong dosage of medication;

(4) A child receives medication at the wrong time;

(5) A medication dose is skipped or missed;

(6) A child receives expired medication;

(7) Not following the medication administration instructions, such as giving a child medication on an empty stomach when the medication should be given with food; and

(8) A child receives medication that was not stored as required to maintain the effectiveness of the medication, such as refrigerating or not refrigerating the medication or exposing the medication to heat or sunlight.

§749.1563. What must a caregiver do if the caregiver finds a medication error?

Subchapter J, Foster Care Services: Medical and Dental

Division 6, Medication and Label Errors

January 2007

(a) If a caregiver finds a medication error regarding a prescribed medication, the caregiver must contact a health-care professional immediately, unless the error is the type described in paragraph (4) or (5) of §749.1561 of this title (relating to What is a medication error?), and follow the health-care professional's recommendations. [Medium-High]

(b) If a caregiver finds a medication error regarding a nonprescription medication, the caregiver must take the appropriate and necessary actions as required by the circumstances. [Medium-High]

(c) For all medication errors, a caregiver must document the following within 24 hours [Medium-High]:

(1) The time and date of the error [Medium-High];

(2) The medication error [Medium-High];

(3) The time and date of the call(s) to the licensed health-care professional, if applicable [Medium-High];

(4) The name and title of the health-care professional contacted, if applicable [Medium-High]; and

(5) The health-care professional's medical recommendations for ensuring the child's safety, if applicable. [Medium-High]

§749.1565. What must a caregiver do if the caregiver finds a medication label error?

Subchapter J, Foster Care Services: Medical and Dental

Division 6, Medication and Label Errors

January 2007

If a caregiver finds a medication label error, the caregiver must:

(1) Report the error to the pharmacist [Medium]; and

(2) Have the label on the medication container corrected as soon as possible but no later than the next business day. [Medium]

Division 7, Side Effects and Adverse Reactions to Medication

§749.1581. What must caregivers do if a child has an adverse reaction to a medication?

Subchapter J, Foster Care Services: Medical and Dental

Division 7, Side Effects and Adverse Reactions to Medication

January 2017

If a child has an adverse reaction (unexpected or dangerous reaction) to a medication, the caregiver must:

(1) Immediately report the reaction to a health-care professional and the child's parent [High];

(2) Follow the health-care professional's recommendations [High];

(3) Seek further medical care for the child if the child's condition appears to worsen [High]; and

(4) Document in the child's medical record the [Medium-High]:

(A) Adverse reactions that the child had to the medication [Medium-High];

(B) Time and date of call(s) to the health-care professional [Medium-High];

(C) Name and title of the health-care professional contacted [Medium-High]; and

(D) Health-care professional's medical recommendations for ensuring the child's safety. [Medium-High]

§749.1583. What must a caregiver do if a child experiences side effects from any medications?

Subchapter J, Foster Care Services: Medical and Dental

Division 7, Side Effects and Adverse Reactions to Medication

January 2017

(a) A side effect from any medication is an effect of medication in addition to the medication's intended effect, often an undesirable effect.

(b) If a child experiences side effects from any medication, the caregiver must:

(1) Document the observed and reported side effects [Medium-High];

(2) Immediately report any serious side effects to the child's prescribing health-care professional and the child's parent [Medium-High]; and

(3) Report any other side effect to the prescribing health-care professional within 72 hours. [Medium-High]

Division 8, Use of Psychotropic Medication

§749.1603. If my agency employs or contracts with a health-care professional who prescribes psychotropic medications to a child in care, what information must I provide the person legally authorized to give consent before requesting his consent for the child to be placed on psychotropic medication?

Subchapter J, Foster Care Services: Medical and Dental

Division 8, Use of Psychotropic Medication

January 2007

(a) Before requesting the person's written consent to give the child psychotropic medication, the prescribing health-care professional must give the following in writing or document a discussion with the person or a combination of both:

(1) The child's diagnosis [Medium-High];

(2) The nature of the child's mental illness or condition [Medium-High];

(3) An explanation of the purpose of the medication [Medium-High];

(4) A description of the benefits expected [Medium];

(5) A description of any accompanying discomforts and risks, including those which could result from long-term use of the medication, and possible side effects, including side effects that are known to frequently occur in persons, side effects to which the child may be predisposed, and the nature and possible occurrence of irreversible symptoms [Medium-High];

(6) A statement of whether the medication is habituating in nature [Medium-High];

(7) Alternative interventions to the use of psychotropic medication that have been attempted and that have been unsuccessful [Medium-High];

(8) Other alternative treatments or procedures to the use of the psychotropic medication [Medium-High];

(9) Risks and benefits of the alternative treatments or procedures [Medium-High];

(10) Risks and benefits of not receiving or undergoing a treatment or procedure [Medium-High];

(11) An explanation that the person legally authorized to give medical consent may ask questions about the child's response to the medication, and may review your daily records on request [Medium-High]; and

(12) An explanation that the person legally authorized to give medical consent may withdraw consent and request the medication be discontinued at any time. [Medium-High]

(b) The health-care professional must offer to answer any questions the person legally authorized to give consent has about the medication. [Medium-High]

(c) The person must sign a consent form that acknowledges that you have provided all of the information set forth in subsection (a) of this section. A copy of this signed consent form must be filed in the child's record. [Medium-High]

§749.1605. If my agency does not employ or contract with the health-care professional who prescribes psychotropic medications to a child in care, what information must I provide the person legally authorized to give medical consent prior to the health-care professional prescribing psychotropic medications to a child in care?

Subchapter J, Foster Care Services: Medical and Dental

Division 8, Use of Psychotropic Medication

January 2007

If you are requesting consent and the person legally authorized to give consent is not privy to this information, you must:

(1) Before requesting the person's written consent to give the child psychotropic medication, provide information in writing or document a discussion with the person regarding:

(A) The nature of the child's mental illness or condition [Medium-High];

(B) A general explanation of the purpose of the medication [Medium-High];

(C) A general description of the benefits expected [Medium];

(D) An explanation that the person may ask questions about the child's response to the medication [Medium-High]; and

(E) An explanation that the person may withdraw medical consent and request the medication be discontinued at any time. [Medium-High]

(2) Offer to answer any questions the person legally authorized to give medical consent has about the medication and/or provide the name and telephone number of the prescribing health-care professional for further information. [Medium-High]

(3) Obtain a signed consent form from the person legally authorized to give medical consent that acknowledges that you have provided all of the information set forth in paragraph (1) of this section. A copy of this signed consent form must be filed in the child's record. [Medium-High]

§749.1607. What are the requirements if a physician orders administration of a psychotropic medication to a child in an emergency?

Subchapter J, Foster Care Services: Medical and Dental

Division 8, Use of Psychotropic Medication

January 2007

(a) If a physician has made a determination that there is an emergency according to §266.009 of the Family Code and the emergency requires the administration of a psychotropic medication, then you must follow the physician's orders and do not have to obtain consent prior to the administration of the medication. [Medium-High]

(b) Within 72 hours after you have administered the medication, you must notify the parent and the person legally authorized to give medical consent. [Medium-High]

(c) The physician's statement regarding the emergency and the prescription must be documented in the child's record. [Medium]

§749.1609. What information must be documented about a child's use of psychotropic medication?

Subchapter J, Foster Care Services: Medical and Dental

Division 8, Use of Psychotropic Medication

January 2007

(a) You must ensure that caregivers maintain a daily record of the child's use of such medication according to the requirements in §749.1541 of this title (relating to What records must caregivers maintain for each child receiving medication?). [Medium-High]

(b) Caregivers must document in the child's record a description of any noticeable change in the child's behavior in response to the medication. [Medium]

(c) You must provide the information in subsection (b) of this section to the prescribing health-care professional or the child's current health-care professional to use in evaluating the appropriateness of continuing the medication. You must document the health-care professional's evaluation and review in the child's record. [Medium]

§749.1611. If my agency employs or contracts with a health-care professional who prescribes psychotropic medications to a child in care, what are the requirements for evaluating whether a child should continue taking a psychotropic medication?

Subchapter J, Foster Care Services: Medical and Dental

Division 8, Use of Psychotropic Medication

January 2007

(a) If a child takes psychotropic medications, the prescribing health-care professional must evaluate and document in the child's medication record a description of the child's response to the medication and an assessment of its effectiveness and the appropriateness of continuing the medication on at least a quarterly basis. The written evaluation must include any reasons for discontinuing the medication. [Medium-High]

(b) If the health-care professional decides that he can evaluate the appropriateness of continuing the medication without seeing the child, you do not have to schedule an appointment for the evaluation.

(c) The health-care professional must consider the target symptoms and treatment goals in evaluating the child's use of psychotropic medications. [Medium]

(d) The health-care professional must document whether the child needs to continue taking the medication. You must document the health-care professional's decision in the child's record. [Medium-High]

(e) If the health-care professional does not substantiate the effectiveness of a specific psychotropic medication within 90 days, the health-care professional must provide a written rationale for continuing the medication for an additional period. The continuation of the medication may not exceed an additional 90 days (for a total of 180 days) if the health-care professional does not substantiate effectiveness. A copy of the written rationale must be documented in the child's record. [Medium-High]

Division 9, Protective Devices

§749.1641. What is a protective device?

Subchapter J, Foster Care Services: Medical and Dental

Division 9, Protective Devices

September 2010

(a) A protective device:

(1) Protects a person from involuntary self-injurious behavior or permits wounds to heal; and

(2) Does not prohibit a person's mobility.

(b) Examples of a protective device are helmets, elbow guards, mittens, and wheelchair seat belts.

(c) If used appropriately, devices intended to encourage mobility or minimally restrain a young child for safety purposes, such as wheelchairs, car seats, high chairs, strollers, bed rails, and child leashes manufactured and sold specifically to harness a young child for safety purposes, are not protective devices.

§749.1643. What does "involuntary self-injurious behavior" mean when used in this division?

Subchapter J, Foster Care Services: Medical and Dental

Division 9, Protective Devices

January 2007

Involuntary self-injurious behavior means a person's physical movements that are automatic and not subject to control of the person's will that may inflict injury to the person.

§749.1645. May I use protective devices?

Subchapter J, Foster Care Services: Medical and Dental

Division 9, Protective Devices

January 2007

(a) You may use protective devices if a licensed physician orders their use for a specific child. The orders must indicate the circumstances under which the protective device is permitted. [High]

(b) You may not use protective devices as:

(1) Punishment [High];

(2) Retribution or retaliation [High];

(3) A means to get a child to comply [High];

(4) A convenience for caregivers or other persons [High]; or

(5) A substitute for effective treatment or habilitation. [High]

(c) You must document the use of protective devices in the child's record, service plan, and service plan reviews. The service planning team must discuss and document in the child's service plan reviews [Medium-High]:

(1) Clinical justification for continued use of protective devices [Medium-High]; and

(2) Ways to reduce the need for protective devices. [Medium-High]

§749.1647. Who may use PRN orders with respect to protective devices?

Subchapter J, Foster Care Services: Medical and Dental

Division 9, Protective Devices

January 2007

A licensed physician ordering protective devices may use PRN orders. The physician must review PRN orders for protective devices at least every 90 days. [Medium-High]

Division 10, Supportive Devices

§749.1671. What is a supportive device?

Subchapter J, Foster Care Services: Medical and Dental

Division 10, Supportive Devices

January 2007

(a) A supportive device used:

(1) To support a person's posture;

(2) To assist a person who cannot obtain and/or maintain normal physical functioning to improve his mobility and independent functioning; or

(3) As an adjunct to proper care and treatment, for example physical therapy.

(b) The purpose of a supportive device is not to restrict movement.

§749.1673. May I use supportive devices?

Subchapter J, Foster Care Services: Medical and Dental

Division 10, Supportive Devices

January 2007

(a) You may use supportive devices if a licensed physician orders their use for a specific child. The orders must indicate the circumstances under which the supportive device is permitted. [High]

(b) You may not use a supportive device as a substitute for appropriate nursing care. [High]

(c) You may not use supportive devices that include tying or depriving or limiting the use of a child's hands or feet. [High]

(d) You may not use supportive devices as:

(1) Punishment [High];

(2) Retribution or retaliation [High];

(3) Means to get a child to comply [High];

(4) A convenience for caregivers or other persons [High]; or

(5) A substitute for effective treatment or habilitation. [High]

(e) If a device is not specifically for assisting with sleep or safety during sleep, you must remove the device during rest periods. [Medium-High]

(f) You must document the use of supportive devices in the child's record, service plan, and service plan reviews. The service planning team must discuss and document in the child's service plan reviews [Medium-High]:

(1) Clinical justification for continued use of supportive devices [Medium-High]; and

(2) Ways to reduce the need for supportive devices. [Medium-High]

§749.1675. Who may use PRN orders with respect to supportive devices?

Subchapter J, Foster Care Services: Medical and Dental

Division 10, Supportive Devices

January 2007

A licensed physician ordering supportive devices may use PRN orders. The physician must review PRN orders for supportive devices at least every 90 days. [Medium-High]

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 1, Additional Requirements for Infant Care

§749.1801. What do certain words mean in this division?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 1, Additional Requirements for Infant Care

April 2022

These words have the following meanings in this division:

(1) Baby bungee jumper – A bucket seat that is suspended from a doorway by an elastic bungee cord that allows an infant to bounce while sitting in the seat.

(2) Baby walker – A baby walker allows an infant to sit inside the walker equipped with rollers or wheels and move across the floor.

(3) Bouncer seat – A stationary seat designed to provide gentle rocking or bouncing motion by an infant's movement or by battery-operated movement. This type of equipment is designed for an infant's use from birth until the child can sit up unassisted.

(4) Restrictive device – Equipment that places the body of an infant in a position that may restrict airflow or cause strangulation; usually, the infant is placed in a semi-seated position. Examples of restrictive devices are car seats, swings, bouncy seats, and highchairs.

§749.1803. What are the basic care requirements for an infant?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 1, Additional Requirements for Infant Care

January 2017

(a) Each infant must receive individual attention, including playing, talking, cuddling, and holding. [Medium-High]

(b) A caregiver must provide prompt attention to an infant's physical needs, such as feeding and diapering. [Medium-High]

(c) An infant's caregiver must ensure that the environment is safe. For example, free the area of objects that may choke or harm the infant, take measures to prevent electric shock, free the area of furniture that is in disrepair or unstable, and allow no unsupervised access to water to prevent the risk of drowning. [Medium-High]

(d) Items necessary for diaper changing must be kept out of the reach of children, but do not need to be in locked storage. [Medium]

(e) An infant's caregiver must never leave the infant unsupervised [High]:

(1) A sleeping infant is considered supervised if the caregiver is within eyesight or hearing range of the infant and can intervene as needed, or if the caregiver uses a video camera or audio monitoring device to monitor the infant and is close enough to the infant to intervene as needed; and

(2) An awake infant is considered supervised if the caregiver is within eyesight of the infant and is close enough to the infant to intervene as needed. For short periods of time in the course of routine household activities, the infant may be out of the caregiver's eyesight, as long as the:

(A) Infant is within hearing range;

(B) Infant's environment is free of any safety hazards; and

(C) Caregiver is able to intervene immediately, as needed.

Technical Assistance
Best practice for infant care suggests: ● Care by the same caregiver on a regular basis, when possible; ● Holding and comforting an infant who is upset; and ● Talking to infants as they are fed, changed, and held, such as naming objects, singing, or saying rhymes. When changing diapers, best practice suggests: ● Promptly change soiled or wet diapers or clothing; ● Thoroughly cleanse infants with individual cloths or disposable towels. Discard disposable towels after use and launder any cloths before using them again; ● Ensure that the infant is dry before placing a new diaper on the infant. If the infant must be dried, use a clean, individual cloth or disposable towel to dry the infant. Launder the individual cloth before using it again or discard the disposable towel after its use; ● Keep all diaper-changing supplies, including ointments and wipes, out of children's reach; ● Wash the infant's hands or see that the infant's hands are washed after each diaper change; ● Discard disposable gloves after each diaper change; and ● Cover containers used for soiled diapers or keep them in a sanitary manner, such as placing soiled diapers in individual sealed bags.

§749.1805. What furnishings and equipment must I have in an infant care area?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 1, Additional Requirements for Infant Care

January 2007

An infant care area must at a minimum include the following furnishings and equipment:

(1) An individual crib for each infant [Medium]; and

(2) A sufficient number of toys to keep each child engaged in activities. [Medium-Low]

§749.1807. What specific safety requirements must my cribs meet?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 1, Additional Requirements for Infant Care

January 2007

(a) All cribs must have:

(1) A firm, flat mattress that snugly fits the sides of the crib. The mattress must not be supplemented with additional foam material or pads [Medium-High];

(2) Sheets that fit snugly and do not present an entanglement hazard [Medium-High];

(3) A mattress that is waterproof or washable [Medium];

(4) Secure mattress support hangers, and no loose hardware or improperly installed or damaged parts [Medium-High];

(5) A maximum of 2 3/8 inches between crib slats or poles [Medium-High];

(6) No corner posts over 1/16 inch above the end panels [Medium-High];

(7) No cutout areas in the headboard or footboard that would entrap a child's head or body [High]; and

(8) Drop rails, if present, which fasten securely and cannot be opened by a child. [Medium-High]

(b) Caregivers must sanitize each crib when soiled and before reassigning the crib to a different child. [Medium-High]

(c) Caregivers must never leave children in the crib with the side down. [High]

(d) The foster home must not have stackable cribs. [Medium-High]

§749.1809. Are mesh cribs or port-a-cribs allowed?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 1, Additional Requirements for Infant Care

January 2007

A foster home may use a full-size, portable, or mesh-side crib if:

(1) Caregivers follow the manufacturer's instructions [Medium];

(2) The crib has:

(A) Mesh that is securely attached to the top rail, side rail, and floor plate [Medium-High]; and

(B) Folded sides that securely latch in place when raised [Medium-High];

(3) Caregivers never leave a child in a mesh-sided crib with a side folded down [Medium-High]; and

(4) If you become aware of a recall for the port-a-crib used, you must discontinue its use. [Medium-High]

Technical Assistance
It is a good idea for the crib to have: • A minimum height of 22 inches from the top of the railing to the mattress support at its lowest level; and • Mesh openings that are 1/4 inch or less.

§749.1811. What equipment must have safety straps before I can use it with an infant?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 1, Additional Requirements for Infant Care

January 2007

(a) A high chair, swing, stroller, infant carrier, rocker, bouncer seat, or a similar type of equipment that a foster home uses for an infant must be equipped with safety straps [Medium-High]; and

(b) The safety straps must be fastened whenever the infant is using the equipment. [Medium-High]

§749.1813. What types of equipment may a foster home not use with infants?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 1, Additional Requirements for Infant Care

January 2017

(a) A foster home may not use any of the following types of equipment with infants:

(1) Baby walkers [Medium-High];

(2) Baby bungee jumpers [Medium-High];

(3) Accordion safety gates [Medium-High]; and

(4) Toys that are not large enough to prevent swallowing or choking [High];

(5) Bean bags, waterbeds, and foam pads for use as sleeping equipment. [High]

(b) Except for a tight fitting sheet and as provided in subsection (c), the crib must be bare for an infant younger than twelve months of age. [High]

(c) A crib mattress cover may also be used to protect against wetness, but the cover must:

(1) Be designed specifically for the size and type of crib and crib mattress that it is being used with [Medium-High];

(2) Be tight fitting and thin [Medium-High]; and

(3) Not be designed to make the sleep surface softer. [Medium-High]

(d) An infant receiving treatment services for primary medical needs may have special items that assist with safe sleep at the written recommendation of a health-care professional. You must keep the recommendation in the child's record. [Medium-High]

Technical Assistance
• The prohibited equipment is not safe or beneficial to an infant's development and is not recommended by either the American Academy of Pediatrics or the Consumer Product Safety Commission • Regarding paragraph (a)(1) baby walkers present a hazard due to risk of falling down stairs or steps, and tipping over thresholds or carpet edges. They provide infants accessibility to potentially hot surfaces, containers of hot liquids such as coffee, dangling appliance cords, poisonous plants or hazardous substances and buckets, toilets or other containers of water.

Technical Assistance
• Regarding paragraph (a)(2), baby bungee jumpers present a hazard due to increased risk of injury to the infant as a result of spinning, swinging, or bumping into walls while placed in the jumper. • Regarding paragraph (a)(3), accordion gates with large V-shaped openings along the top edge and diamond shaped openings between the slats present entrapment and entanglement hazards resulting in strangulation, choking or pinching to infants who try to crawl through or over the gate. • Regarding paragraph (a)(4), examples of items that present a choking hazard for infants and toddlers include coins, balloons, safety pins, marbles, Styrofoam © and similar products, and sponge, rubber or soft plastic toys. • Regarding subsection (b), examples of items that can be used as alternatives to blankets and sheets are a one-piece footed sleeper, a body shirt or undershirt underneath a sleeper, sleep sack or wearable blanket that zips up the front and can be worn over a sleeper. Wearable blankets are sleeveless, so a baby can still move his arms around while the rest of his body stays covered.

§749.1815. What are the specific sleeping requirements for infants?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 1, Additional Requirements for Infant Care

January 2017

(a) Caregivers must place an infant not yet able to turn over on his own in a face-up sleeping position unless a health-care professional orders otherwise. You must keep any orders from a health-care professional in the child's record. [High]

(b) An infant's head, face, or crib must not be covered at any time by an item such as a blanket, linen, or clothing. [High]

(c) An infant may not sleep in a prone position with a sleeping adult at any time, including in the adult's bed, on a couch, etc. [High]

§749.1817. May I allow an infant to sleep in a restrictive device?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 1, Additional Requirements for Infant Care

April 2021

You may not allow an infant to sleep in a restrictive device. If an infant falls asleep in a restrictive device, you must remove the infant from the device and place the infant in a crib as soon as possible. [High]

Technical Assistance
• A restrictive device is equipment that places the body of an infant in a position that may restrict air flow or cause strangulation; usually, the infant is placed in a semi-seated position. Examples include car seats, swings, bouncy seats, and high chairs. • Infants sleeping in restrictive devices are at risk for injury and positional asphyxiation. • Placing a car seat containing a sleeping infant in a crib is one example of prohibited use of a restrictive device. • Allowing a sleeping infant to remain in a car seat during transportation is not an example of prohibited use of a restrictive device.

§749.1819. What are the specific requirements for feeding an infant?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 1, Additional Requirements for Infant Care

January 2017

(a) Caregivers must feed an infant based on the recommendations of the infant's licensed health-care professional. [Medium]

(b) Unless recommendations from the service team are contrary, caregivers must hold the infant while feeding an infant that is [Medium]:

(1) Birth through six months old [Medium-High]; or

(2) Unable to sit unassisted in a high chair or other seating equipment during feeding. [Medium]

(c) Caregivers must never prop a bottle by supporting it with anything other than the infant's or adult's hand. [Medium]

(d) A caregiver who cares for more than one infant must:

(1) Sterilize shared bottles or training cups between uses by different infants [Medium]; and

(2) Clean high chair trays before each use. [Medium]

Technical Assistance
Best practice suggests: • Feeding infants while infants are awake; • Providing regular snack and meal times for infants who eat table food; and • Ensuring infants no longer being held for feeding are fed in a safe manner.

§749.1821. May I swaddle an infant to help the infant sleep?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 1, Additional Requirements for Infant Care

April 2021

You may not lay a swaddled infant down to sleep or to rest on any surface at any time, unless you have an order signed by a health-care professional. You must keep the order in the child's record. [High]

Technical Assistance
There is evidence that swaddling can increase the risk of serious health outcomes, including SIDS and hip disease, and research does not provide definitive data to support the use of swaddling. Even with newborns, research does not provide conclusive data about whether swaddling should be used. Swaddling blankets that become loose during sleep pose an additional risk for infants. For concerns with maintaining an infant's temperature, appropriate clothing and/or a sleeveless infant sleep sack that does not restrict the infant's movement can be utilized. For more information on safe sleep, see the American Academy of Pediatrics Health Initiatives for Safe Sleep and the National Institutes of Health Safe to Sleep Campaign.

Division 2, Additional Requirements for Toddler Care

§749.1841. What are the basic care requirements for a toddler?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 2, Additional Requirements for Toddler Care

September 2010

(a) Each toddler must receive individual attention, including playing, talking, and cuddling. [Medium-High]

(b) A toddler's caregiver must ensure that the environment is safe. For example, free the area of objects that may choke or harm the toddler, take measures to prevent electric shock, free the area of furniture that is in disrepair or unstable, and allow no unsupervised access to water to prevent the risk of drowning. [High]

(c) A toddler's caregiver must never leave the toddler unsupervised. A toddler is considered supervised if the caregiver is within eyesight or hearing range of the child and can intervene as needed, or if the caregiver uses a video camera or an audio monitoring device to monitor the child and is close enough to the child to intervene as needed. [High]

Technical Assistance

Best practice for toddler care suggests:

- Care given by the same caregiver on a regular basis, when possible;
- Individual attention given to each toddler including playing, talking, and cuddling; and
- Holding and comforting a toddler who is upset.

Best practice suggests that furnishings and equipment for toddlers include the following:

- Age-appropriate seating, tables, and nap or sleep equipment;
- Enough popular items available so that toddlers are not forced to compete for them; and
- Make items accessible to toddlers by using containers or low shelving, so the items may be used safely and without direct supervision.

Best practices for nap or rest time include the following:

- Schedule a supervised sleep or rest period after the noon meal for toddlers according to the child's individual physical needs;
- Lighting should allow for visual supervision of the toddlers;
- Limit the sleep or rest period to no more than three hours;
- Do not force toddlers to sleep and do not put anything in or on a toddler's head or body to force the toddler to rest or sleep;
- Allow each toddler who is awake after resting or sleeping for one hour to participate in an alternative, quiet activity until the nap/rest time is over for other children who may be resting; and
- Take a toddler who sleeps or rests in a crib out of the crib for other activities when the toddler awakens.

Division 3, Additional Requirements for Pregnant Children

§749.1861. What information must I provide a pregnant child regarding her pregnancy?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 3, Additional Requirements for Pregnant Children

September 2010

You must:

(1) Ensure information, training, and counseling is available regarding health aspects of pregnancy, preparation for child birth, and recovery from child birth [Medium];

(2) Ensure the pregnant child receives nutritional counseling and guidance that meets generally accepted standards, including nutrition during pregnancy, lactation, and foods to avoid [Medium]; and

(3) Inform the child, within seven days of admission or upon learning of the pregnancy, of her right to be free from pressure to get an abortion, relinquish her child for adoption, or to parent her child. [Medium]

§749.1863. Is the use of emergency behavior intervention of a pregnant child permitted in a foster home?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 3, Additional Requirements for Pregnant Children

January 2017

If your policies allow for the use of personal restraints and you have a pregnant child in care:

(1) The health-care professional attending to the child's pregnancy must document whether any type of emergency behavior intervention that your policies allow is inadvisable [Medium-High]; and

(2) You may not use any emergency behavior intervention that the child's health-care professional attending to her pregnancy finds inadvisable. [High]

§749.1865. If my policies permit the admission of adolescent parents with their child(ren), who is responsible for the care of an **adolescent's child?**

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 3, Additional Requirements for Pregnant Children

January 2007

If your policies permit the admission of adolescent parents with their child(ren):

(1) An adolescent parent must provide most of the care for her child [Medium];

(2) Caregivers must be available to the adolescent parent as a resource and support [Medium-High]; and

(3) When you care for an adolescent's child in the adolescent parent's absence, you are responsible for that child as if the child is in your care. [Medium-High]

Division 4, Educational Services

§749.1891. What responsibilities do I have for the education of a child in care?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 4, Educational Services

January 2017

(a) You must arrange an appropriate education for each child, including:

(1) Ensuring the child in care attends an educational facility or program that is approved or accredited by the Texas Education Agency, the Southern Association of Colleges and Schools, or the Texas Private School Accreditation Commission, unless the child's service planning team approves the child attending another educational facility or program. You must keep documentation of the planning team's justification and approval in the child's record [Medium-Low];

(2) Ensuring a school-age child receives education and training in the least restrictive setting necessary to meet the child's needs and abilities [Low];

(3) For a child attending an accredited educational facility or program, ensuring the facility or program implements a special education student's individual education plan (IEP) [Medium-Low]; and

(4) Advocating that a school-age child receives the educational and related services to which he is entitled under provisions of federal and state law and regulations. [Medium-Low]

(b) For children receiving treatment services you must designate a liaison between the agency and the child's school. [Medium-Low]

§749.1893. What responsibilities do caregivers have for the educational needs of a child in their care?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 4, Educational Services

April 2022

Caregivers must:

(1) Review report cards and other information received from teachers or school authorities with the child and provide necessary information to agency staff [Medium-Low];

(2) Counsel and assist the child regarding adequate classroom performance [Medium-Low];

(3) Permit, encourage, and make reasonable efforts to involve the child in extracurricular activities as determined by a reasonable and prudent parent standard and to the extent of the child's interests and abilities and in accordance with the child's service plan [Low];

(4) Provide a quiet, well-lighted space for the child to study and allow regular times for homework and study [Medium-Low];

(5) Know what emergency behavior interventions are permitted and being used with the child [Medium];

(6) Request ARD (admission, review, and dismissal), IEP (individual education plan), and ITP (individual transitional planning) meetings if concerned with the child's educational program or if the child does not appear to be making progress [Medium-Low];

(7) Provide notice to the parent of the child of any scheduled ARD, IEP, or ITP meetings [Medium-Low];

(8) Attend ARD, IEP, ITP meetings, other school staffings, and conferences to represent the child's educational best interests, including the child being evaluated for and provided with services needed for the child to benefit from educational services, and positive behavior supports designed to decrease the need for negative disciplinary techniques or interventions [Medium-Low]; and

(9) Know what is in the child's IEP and support the school's efforts to implement the IEP, if applicable. [Medium-Low]

§749.1895. What are the specific requirements for the educational program of a child diagnosed with an autism spectrum disorder?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 4, Educational Services

January 2017

You must ensure that the educational program for a child with an autism spectrum disorder:

(1) Encourages normalization through appropriate stimulation and by encouraging self-help skills [Medium-Low]; and

(2) Is appropriate to the child's intellectual and social functioning. [Medium-Low]

Division 5, Recreational Services

§749.1921. What responsibilities do foster parents have for providing a child with opportunities for recreational activities?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 5, Recreational Services

January 2017

(a) Caregivers must provide daily indoor and outdoor recreational and other activities appropriate to the needs, interests, and abilities of the children so every child may participate. [Medium-Low]

(b) Except for written medical orders to the contrary, your programs for non-ambulatory children must include:

(1) Physical fitness development that prescribes a variety of body positions [Medium]; and

(2) Changes in environment. [Medium-Low]

(c) Each child must have individual free time as appropriate to the child's age and abilities. [Low]

(d) Caregivers must provide the following types of recreational activities based on each individual child's needs:

Types of service	The caregivers must:
(1) Child-care services	(A) Ensure that opportunities to participate in community activities, such as school sports or other extracurricular school activities, religious activities, or local social events, are available to the child [Low]; and (B) Organize family activities, religious activities, or local social events that are available to the child. [Low]

Types of service	The caregivers must:
(2) Treatment services	(A) Meet the requirements in paragraph (1)(A) of this chart [Low]; (B) Ensure that each child receiving treatment services has an individualized recreation plan designed by the service planning team or professionals who are qualified to address the child's individual needs, that the plan is implemented, and that the plan is revised by the service planning team or qualified professionals, as needed [Medium-Low]; and (C) Ensure that medical and physical support are given if the recreational and leisure-time activities require it for a child who is receiving treatment services for primary medical needs, autism spectrum disorder, or intellectual disability. [Medium]

Technical Assistance
Chapter 768 of the Texas Health and Safety Code outlines specific requirements for children who participate in rodeos, including wearing protective gear. Operations need to be aware of the requirements of this law if children in their care participate in rodeos.

§749.1923. What physical fitness activities must caregivers provide for a child receiving treatment services for primary medical needs or intellectual disability?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 5, Recreational Services

January 2017

(a) A child receiving treatment services for primary medical needs or intellectual disability must have a minimum of one hour of physical stimulation each day. [Medium]

(b) Training programs for non-mobile children must include development of physical fitness. This must include a variety of body positions and changes in environment. [Medium]

§749.1925. What type of daily schedule must caregivers provide for a child receiving treatment services for primary medical needs or intellectual disability?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 5, Recreational Services

January 2017

A child receiving treatment services for primary medical needs or intellectual disability must have a schedule that is based on the normalization principle. In order to help the child obtain an existence as normal as possible, the daily schedule must [Medium-Low]:

(1) Demonstrate an understanding of normal child development [Medium-Low]; and

(2) Enhance the child's physical, emotional, and social development. [Medium]

§749.1927. To what extent must a child receiving treatment services for primary medical needs or intellectual disabilities have normal life experiences?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 5, Recreational Services

December 2014

A child receiving treatment services for primary medical needs or intellectual disabilities should experience normalcy as much as possible and as appropriate for the child's special needs. This means that the child's foster parents must be routinely and personally involved with the child. This involvement must include [Medium]:

(1) Daily one-on-one interaction between the child and the foster parent primarily responsible for the child's care [Medium];

(2) Participation in everyday family activities to the extent the child is able, such as having meals together, participating in family time, and participating in family outings [Medium];

(3) Sensory stimulation for the child, such as the child being held, being read to, being played with, and being talked to, and the foster family watching television and listening to music together [Medium];

(4) Actively participating in the child's medical care, including appointments and hospitalizations [Medium]; and

(5) Actively participating in the child's educational needs. [Medium]

Division 6, Discipline and Punishment

§749.1951. What are the requirements for disciplinary measures?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 6, Discipline and Punishment

January 2007

(a) Only a caregiver known to and knowledgeable of a child may discipline the child. [Medium]

(b) Each disciplinary measure must:

(1) Be consistent with your policies and procedures [Medium];

(2) Not be physically or emotionally damaging to the child [High];

(3) Be individualized to meet each child's needs [Medium];

(4) Be appropriate to the child's level of understanding, age, and developmental level [Medium-High]; and

(5) Be appropriate to the incident and severity of the behavior demonstrated. [Medium]

(c) The goal of each disciplinary measure must be to teach the child acceptable behavior and self-control. The caregiver must explain the reason for the disciplinary measure when the caregiver imposes the measure. [Medium]

Technical Assistance

It is a good idea for disciplinary measures to be consistent among caregivers. Using positive methods of discipline and guidance encourage self-esteem, self-control, and self-direction. Positive methods of discipline include the following:

- Using praise, positive reinforcement, and encouragement of good behavior instead of focusing only on unacceptable behavior;
- Reminding a child of behavior expectations daily by using clear, positive statements;
- Talking with the child about the situation;
- Focusing on the rule to learn and the reason for the rule;
- Focusing on solutions that are respectful, reasonable, and related to the problem behavior, rather than blaming or focusing on consequences;
- Redirecting the child's attention or behavior using positive statements;
- Providing prior notice of possible consequences for inappropriate behaviors;
- Giving the child acceptable choices or alternatives;
- Using brief supervised separation or time away from the group or situation, when appropriate for the child's understanding, age, and development. Best practice suggests that quiet time or time out from the group be limited to no more than one minute per year of the child's chronological or developmental age. However, this time frame may need to be adjusted for some children, such as a child who has attention-deficit disorder. Time out is not appropriate for infants and is not recommended for toddlers, since they are too young to understand this intervention;
- Arranging the environment to allow safe testing of limits;
- Using kind but firm action;
- Giving logical consequences that are appropriate to the situation and severity of the behavior; and
- Withholding privileges.

§749.1953. May I use corporal punishment for children in care?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 6, Discipline and Punishment

January 2007

(a) You may not use or threaten to use corporal punishment with any child in care. [High]

(b) Corporal punishment is the infliction of physical pain on any part of a child's body as means of controlling or managing the child's behavior. It includes:

(1) Hitting or spanking a child with a hand or instrument; or

(2) Forcing or requiring the child to do any of the following as a method of managing or controlling behavior:

(A) Perform any form of physical exercise, such as running laps or doing sit ups or push ups;

(B) Hold a physical position, such as kneeling or squatting; or

(C) Do any form of "unproductive work."

§749.1955. What is "unproductive work"?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 6, Discipline and Punishment

January 2007

(a) "Unproductive work" is work that serves no purpose except to demean the child. Examples include moving rocks or logs from one pile to another or digging a hole and then filling it in. Unproductive work is never an appropriate behavior management tool.

(b) "Unproductive work" does not include work that corrects damage that the child's behavior caused. For example, you may require a child who defaces a fence or wall to repaint it. This example includes a logical consequence and an acceptable behavior management tool.

§749.1957. What other methods of punishment are prohibited?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 6, Discipline and Punishment

April 2022

In addition to corporal punishment, prohibited discipline techniques include, but are not limited to:

(1) Any harsh, cruel, unusual, unnecessary, demeaning, or humiliating discipline or punishment [High];

(2) Denial of mail or visits with their families as discipline or punishment [Medium];

(3) Threatening with the loss of placement as discipline or punishment [Medium];

(4) Using sarcastic or cruel humor [Medium-High];

(5) Maintaining an uncomfortable physical position, such as kneeling, or holding his arms out [Medium-High];

(6) Pinching, pulling hair, biting, or shaking a child [High];

(7) Putting anything in or on a child's mouth [High];

(8) Humiliating, shaming, ridiculing, rejecting, or yelling at a child [Medium-High];

(9) Subjecting a child to abusive or profane language [Medium-High];

(10) Placing a child in a dark room, bathroom, or closet [High];

(11) Requiring a child to remain silent or inactive for inappropriately long periods of time for the child's age [Medium-High];

(12) Confining a child to a highchair, box, or other similar furniture or equipment as discipline or punishment [Medium-High];

(13) Denying basic child rights as a form of discipline or punishment [High];

(14) Withholding food that meets the child's nutritional requirements [High]; and

(15) Using or threatening to use emergency behavior intervention as discipline or punishment. [High]

Technical Assistance
Regarding subsection (7), examples include, but are not limited to, soap, tape, hot peppers, and hot sauce.

§749.1959. To what extent may a caregiver restrict a child's activities as a behavior management tool?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 6, Discipline and Punishment

January 2017

(a) Within limits, a foster parent may restrict a child's activities as a behavior management tool.

(b) Restrictions of activities that will be imposed on a child for more than 14 days, must be reviewed with and approved by the child placement management staff or treatment director prior to or within 24 hours of imposing the restriction. [Medium-Low]

(c) Restrictions to a particular room or building that will be imposed on a child for more than 24 hours must have approval from the service planning team, a professional service provider, or treatment director prior to or within 24 hours of imposing the restriction. [Medium-Low]

(d) You must inform the child and parent about any such restrictions you place on the child. [Medium-Low]

(e) Documentation of all approvals, justification for the restriction, and informing the child and parents must be in the child's record. [Medium-Low]

§749.1961. May a person in care discipline or punish another person in care?

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 6, Discipline and Punishment

January 2017

No. A person in care must not discipline or punish another person in care except when babysitting under §749.2599 of this title (relating to Can a child serve as a babysitter?). [Medium-High]

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 1, Definitions

§749.2001. What do certain terms mean in this subchapter?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 1, Definitions

April 2022

These terms have the following meaning in this subchapter:

(1) Transitional hold – The use of a temporary restraint technique that lasts no longer than one minute as part of the continuation of a longer personal.

(2) Triggered review – A review of a specific child's placement, treatment plan, and orders or recommendations for intervention, because a certain number of interventions have been made within a specified period of time.

Division 2, Types of Emergency Behavior Intervention That May Be Administered

§749.2051. What types of emergency behavior intervention may I administer?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 2, Types of Emergency Behavior Intervention That May Be Administered

January 2007

(a) If permitted in your policies and you meet the requirements of this subchapter, a caregiver may administer the following types of emergency behavior intervention to a child in your care:

(1) Short personal restraint [Medium-High];

(2) Personal restraint [Medium-High]; and

(3) Emergency medication. [Medium-High]

(b) You may never administer chemical restraints, mechanical restraints, or seclusion. [High]

(c) Protective and supportive devices, used appropriately, are not considered emergency behavior interventions. For information on protective and supportive devices, see Divisions 9 and 10 of Subchapter J of this chapter (relating to Foster Care Services: Medical and Dental).

§749.2053. Who may administer emergency behavior intervention?

Subchapter L, Foster Care Services: Emergency Behavior Intervention
Division 2, Types of Emergency Behavior Intervention That May Be Administered
January 2007

Only a caregiver qualified in emergency behavior intervention may administer any form of emergency behavior intervention, except for the short personal restraint of a child. [Medium-High]

§749.2055. What actions must a caregiver take before using a permitted type of emergency behavior intervention?

Subchapter L, Foster Care Services: Emergency Behavior Intervention
Division 2, Types of Emergency Behavior Intervention That May Be Administered
September 2010

(a) Before using a permitted type of emergency behavior intervention, the caregiver must:
  (1) Attempt less restrictive behavior interventions that prove to be ineffective at defusing the situation [Medium-High]; and
  (2) Determine that the basis for the emergency behavior intervention is [Medium-High]:
    (A) An emergency situation; or
    (B) A need for a personal restraint to administer intra-muscular medication or other medical treatments prescribed by a licensed physician, such as administering insulin to a child with diabetes.

(b) A child's active attempt to run away may be considered an emergency situation when the following is a factor:
  (1) The child is developmentally or chronologically under six years old;
  (2) The child is suicidal;
  (3) The operation is located near a high traffic area;
  (4) Adverse weather conditions pose a clear safety risk to the child; or
  (5) Other clear safety risks are present.

§749.2059. What is the appropriate use for a short personal restraint?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 2, Types of Emergency Behavior Intervention That May Be Administered

September 2010

Generally, a short personal restraint is used in urgent situations, such as:

(1) To protect the child from external danger that causes imminent significant risk to the child, such as preventing the child from running into the street or coming into contact with a hot stove. The restraint must end immediately after the danger is averted.

(2) To intervene when a child under the age of five (chronological or developmental age) demonstrates disruptive behavior, if other efforts to de-escalate the child's behavior have failed;

(3) When a child over five years old demonstrates behavior disruptive to the environment or milieu, such as disrobing in public, provoking others that creates a safety risk, or to intervene to prevent a child from physically fighting; or

(4) When a child is significantly damaging property, such as breaking car windows or putting holes into walls.

§749.2061. What precautions must a caregiver take when implementing a short personal restraint?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 2, Types of Emergency Behavior Intervention That May Be Administered

January 2007

(a) When a caregiver implements a short personal restraint, the caregiver must:

(1) Minimize the risk of physical discomfort, harm, or pain to the child [Medium-High];

(2) Use the minimal amount of reasonable and necessary physical force. [Medium-High]

(b) A caregiver may not use any of the following techniques as a short personal restraint:

(1) A prone or supine restraint [High];

(2) Restraints that impair the child's breathing by putting pressure on the child's torso, including leaning a child forward during a seated restraint [High];

(3) Restraints that obstruct the airways of the child or impair the breathing of the child, including procedures that place anything in, on, or over the child's mouth, nose, or neck, or impede the child's lungs from expanding [High];

(4) Restraints that obstruct the caregiver's view of the child's face [High];

(5) Restraints that interfere with the child's ability to communicate or vocalize distress [High]; or

(6) Restraints that twist or place the child's limb(s) behind the child's back. [High]

§749.2063. Are there any purposes for which emergency behavior intervention cannot be used?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 2, Types of Emergency Behavior Intervention That May Be Administered

January 2007

Emergency behavior intervention may never be used as:

(1) Punishment [Medium-High];

(2) Retribution or retaliation [Medium-High];

(3) A means to get a child to comply [Medium-High];

(4) A convenience for caregivers or other persons [Medium-High]; or

(5) A substitute for effective treatment or habilitation. [Medium-High]

Division 3, Orders

§749.2101. Are written orders required to administer emergency behavior intervention, and if so, who can write them?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 3, Orders

January 2007

According to the following chart, written orders by certain professionals are required to administer certain emergency behavior intervention:

Weight	Type of Emergency Behavior Intervention	(A) Are written orders required to administer the intervention for a specific child?	(B) Who can write orders for the use of the intervention for a specific child?
No Weight	(1) Short personal restraint	(A) NO.	(B) Not applicable.
No Weight	(2) Personal restraint	(A) NO. However, successive restraints, a restraint simultaneous with emergency medication, and/or a restraint that exceeds the maximum time limit all require orders as specified in this subchapter. PRN orders are also permitted under §749.2107 of this title (relating to Under what conditions are PRN orders permitted for a specific child?).	(B) Not Applicable.
(A) Medium-High (B) Medium-High	(3) Emergency medication	(A) YES.	(B) A licensed physician.

§749.2103. Must the written order be in a child's record before a caregiver can use an emergency behavior intervention on a child?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 3, Orders

January 2007

Yes, any type of written order that is required must be in the child's record before a caregiver can use emergency behavior intervention on that child. [Medium-High]

§749.2105. What information must a written order include?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 3, Orders

January 2007

(a) All written orders must include the following:

(1) A statement that the particular type of emergency behavior intervention may only be used in an emergency situation [Medium-High];

(2) Designation of the specific intervention and procedure or technique that is authorized [Medium-High];

(3) Any specific measures for ensuring the child's health, safety, and well being, and the privacy of the setting that safeguards the child's personal dignity [Medium-High];

(4) A complete description of the behaviors and circumstances under which the intervention may be used [Medium-High];

(5) Instructions for observation or heightened observation of the child during the intervention [Medium-High];

(6) The behaviors that indicate the child is ready to be released from the intervention [Medium-High];

(7) The maximum length of time the child may be restrained regardless of behaviors exhibited [Medium-High];

(8) The prescribing professional's consideration of any potential medical and/or psychiatric contraindications for the specific child, such as a history of physical or sexual abuse or victimization involving the type of intervention [Medium-High]; and

(9) Clinical justification for the intervention. [Medium-High]

(b) For emergency medication, the written order must also include instructions on how to administer the medication. [Medium-High]

§749.2107. Under what conditions are PRN orders permitted for a specific child?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 3, Orders

April 2022

(a) PRN orders for certain emergency behavior interventions are permitted under the following conditions:

Weight	Type of Emergency Behavior Intervention	Conditions:
[No-Weight]	(1) Short personal restraint	Not applicable, because short personal restraints do not require orders.
[Medium-High]	(2) Personal restraint	(A) Orders must originate from a licensed psychiatrist or psychologist and include the number of times a child may be restrained in a seven-day period. (B) If the orders allow more than three restraints within a seven-day period, the order must include a plan for reducing the need for emergency behavior intervention. (C) The licensed psychiatrist or psychologist must review PRN orders for personal restraint at least every 30 days. The review must include written clinical justification for the continuation of PRN orders and be documented in the child's record. (D) PRN orders may not be used to restrain a child beyond the maximum length of time for personal restraint, as described in §749.2281 of this chapter (relating to What is the maximum length of time that an emergency behavior intervention can be administered to a child?).
[Medium-High]	(3) Emergency medication	The licensed physician must review PRN orders for emergency medication at least every 30 days. The review must include written clinical justification for the continuation of PRN orders and be documented in the child's record.

(b) If you obtain a PRN order, you must provide the parent with a copy of the PRN order within 72 hours. [Medium]

Division 4, Responsibilities During Administration of Any Type of Emergency Behavior Intervention

§749.2151. What responsibilities does a caregiver have when implementing a type of emergency behavior intervention?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 4, Responsibilities During Administration of Any Type of Emergency Behavior Intervention

January 2017

(a) The use of emergency behavior intervention must be an appropriate response to the behavior demonstrated, and de-escalation must have failed. [Medium-High]

(b) The caregiver must act to protect the child's safety and consider the [Medium-High]:

(1) Characteristics of the immediate physical environment [Medium-High];

(2) Permitted types of emergency behavior intervention [Medium-High]; and

(3) Potential risk of harm in using emergency behavior intervention versus the risk of not using emergency behavior intervention. [Medium-High]

(c) The caregiver must:

(1) Initiate an emergency behavior intervention in a way that minimizes the risk of physical discomfort, harm, or pain to the child [Medium-High]; and

(2) Use the minimal amount of reasonable and necessary physical force to implement the intervention. [High]

(d) The caregiver must make every effort to protect the child's:

(1) Privacy, including shielding the child from onlookers [Medium]; and

(2) Personal dignity and well-being, including ensuring that the child's body is appropriately covered. [Medium]

(e) As soon as possible after starting any type of emergency behavior intervention, the caregiver must:

(1) Explain to the child the behaviors the child must exhibit to be released or have the intervention reduced, if applicable [Medium-High]; and

(2) Permit the child to suggest actions the caregivers can take to help the child de-escalate. [Medium-High]

(f) If the child does not appear to understand what the child must do to be released from the emergency behavior intervention, the caregiver must attempt to re-explain it every 15 minutes until the child understands or is released from the intervention. [Medium-High]

§749.2153. When must a caregiver release a child from an emergency behavior intervention?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 4, Responsibilities During Administration of Any Type of Emergency Behavior Intervention

April 2022

A child must be released as follows:

Type of Emergency Behavior Intervention	The caregiver must release the child if any of the following apply:
(1) Short personal restraint	(A) Immediately when an emergency health situation occurs during the restraint. The caregiver must obtain treatment immediately [High]; or (B) Within one minute, or sooner if the danger is over or the emergency situation no longer exists. [Medium-High]
(2) Personal restraint	(A) Immediately when an emergency health situation occurs during the restraint. The caregiver must obtain treatment immediately [High]; (B) Within one minute of the implementation of a prone or supine transitional hold [High]; (C) As soon as the child's behavior is no longer a danger to himself or others [Medium-High]; (D) As soon as the medication is administered [Medium-High]; or (E) When the maximum time allowed for personal restraint is reached. [Medium-High]
(3) Emergency medication	Not applicable.

Division 5, Additional Responsibilities During Administration of a Personal Restraint

§749.2201. Who must monitor a personal restraint?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 5, Additional Responsibilities During Administration of a Personal Restraint

January 2017

During any personal restraint, a caregiver qualified in emergency behavior intervention must:

(1) Monitor the:

(A) Personal restraint to make sure it is being performed appropriately [High]; and

(B) Child's breathing and other signs of physical distress [High]; and

(2) Take appropriate action to ensure adequate respiration, circulation, and overall well-being. [High]

§749.2203. What is the appropriate action for a caregiver to take to **ensure the child's adequate respiration, circulation, and overall well**-being?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 5, Additional Responsibilities During Administration of a Personal Restraint

January 2017

Appropriate action includes responding prudently to a potentially life-threatening situation, for example, releasing a child when a child is unresponsive or indicates the child cannot breathe and immediately seeking medical assistance from a health-care professional. The caregiver must take into account that a child may thrash about more violently as the child struggles to breathe.

Technical Assistance
Signs of distress: ● Circulation – Are the child's extremities cold to the touch? Are the child's extremities turning blue or is the child turning blue around the mouth? ● Respiration – Is the child's breathing rapid and shallow? Is there an absence of breathing? Is the child saying he or she cannot breath? ● Neurological – Is the child disoriented? Is he or she having a seizure? ● Gastrointestinal – Is the child vomiting or losing control of his or her bowels? ● Muscular-Skeletal – Is there apparent bruising, swelling, and/or complaints of pain?

§749.2205. What personal restraint techniques are prohibited?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 5, Additional Responsibilities During Administration of a Personal Restraint

January 2007

(a) The following personal restraint techniques are prohibited:

(1) Restraints that impair the child's breathing by putting pressure on the child's torso, including restraints that obstruct the child's lungs from expanding such as leaning a child forward during a seated restraint [High];

(2) Restraints that obstruct the child's airway, including procedures that place anything in, on, or over the child's mouth, nose, or neck [High];

(3) Restraints that obstruct a caregiver's ability to view the child's face [High];

(4) Restraints that interfere with the child's ability to communicate or vocalize distress [High]; or

(5) Restraints that twist or place the child's limb(s) behind the child's back. [High]

(b) Prone and supine restraints are also prohibited as a short personal restraint. [High]

(c) Prone and supine restraints are also prohibited as a personal restraint except:

(1) As a transitional hold that lasts no longer than one minute [High];

(2) As a last resort when other less restrictive interventions have proven to be ineffective [High]; and

(3) When an observer meeting the following qualifications ensures the child's breathing is not impaired:

(A) Trained to identify risks associated with positional, compression, or restraint asphyxia [High]; and

(B) Trained to identify risks associated with prone and supine holds. [High]

Division 6, Combinations of Emergency Behavior Intervention

§749.2231. May a caregiver successively use emergency behavior interventions on a child?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 6, Combinations of Emergency Behavior Intervention

January 2017

(a) A caregiver may successively use emergency behavior interventions on a child only if:

(1) Allowed by your policies [Medium-High];

(2) Permitted by rules of this subchapter for both types of emergency behavior intervention [Medium-High]; and

(3) Written orders specifically allow the combination. [Medium-High]

(b) The written orders must include clinical justification for the successive use of emergency behavior interventions that goes beyond the justification for the use of a single intervention. The licensed physician ordering the emergency medication must provide clinical justification for the combination of emergency medication and personal restraint. [Medium]

(c) A caregiver must allow the child:

(1) Bathroom privileges as needed and at least once every two hours [Medium-High];

(2) An opportunity to drink water at least once every two hours [High];

(3) Regularly prescribed medications unless otherwise ordered by the licensed physician [Medium-High];

(4) Regularly scheduled meals and snacks served in a safe and appropriate manner [Medium-High]; and

(5) An environment that is adequately ventilated during warm weather, adequately heated during cold weather, appropriately lighted, and free of safety hazards. [Medium-High]

§749.2233. May a caregiver simultaneously use emergency medication in combination with personal restraint?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 6, Combinations of Emergency Behavior Intervention

January 2007

(a) A caregiver may simultaneously use emergency medication in combination with personal restraint only if:

(1) Allowed by your policies [High];

(2) Permitted by the rules of this subchapter for both types of emergency behavior intervention [High]; and

(3) Written orders specifically allow the combination. [High]

(b) The written orders must include clinical justification for the combination of emergency medication with personal restraint that goes beyond the justification for the use of a single emergency behavior intervention. If they are different people, both the licensed physician ordering the emergency medication and the professional ordering the personal restraint must provide the clinical justification for the combination. [Medium-High]

Division 7, Time Restrictions for Emergency Behavior Intervention

§749.2281. What is the maximum length of time that an emergency behavior intervention can be administered to a child?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 7, Time Restrictions for Emergency Behavior Intervention

April 2022

The maximum length of time that certain emergency behavior interventions can be administered to a child is as follows:

Types of Emergency Behavior Intervention	The maximum length of time is:
(1) Short personal restraint	One minute. [Medium-High]
(2) Personal restraint	(A) For a child of any age, 30 minutes. [High] (B) A prone or supine personal restraint transitional hold may not exceed one minute. [High]
(3) Emergency medication	Not applicable.

§749.2283. Can a caregiver exceed the maximum length of time that an emergency behavior intervention can be administered to a child?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 7, Time Restrictions for Emergency Behavior Intervention

February 2017

A caregiver may exceed the maximum length of time for certain emergency behavior interventions as follows:

Types of Emergency Behavior Intervention	The maximum length of time is:
(1) Short personal restraint	May not be exceeded. [Medium-High]
(2) Personal restraint	May not be exceeded. [Medium-High]
(3) Emergency medication	Not applicable.

Division 8, General Caregiver Responsibilities, Including Documentation, After the Administration of Emergency Behavior Intervention

§749.2301. What follow-up actions must caregivers take after the child's behavior no longer constitutes an emergency situation?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 8, General Caregiver Responsibilities, Including Documentation, After the Administration of Emergency Behavior Intervention

September 2010

(a) The caregivers must take appropriate actions to help the child return to routine activities. The follow-up actions of the caregivers must include [Medium]:

(1) Providing the child with an appropriate transition and offering the child an opportunity to return to regular activities [Medium-High];

(2) Observing the child for at least 15 minutes [Medium]; and

(3) Providing the child with an opportunity to discuss the situation that led to the need for emergency behavior intervention and the caregiver's reaction to that situation. The discussion must be held in private as soon as possible and no later than 48 hours after the child's use of an emergency medication or release from any emergency behavior intervention. [Medium]

(b) Caregivers involved in the emergency behavior intervention must conduct a post-emergency behavior intervention discussion. The goal of the discussion is to allow the child and caregiver to discuss [Medium]:

(1) The child's behavior and the circumstances that constituted the need for an emergency behavior intervention [Medium];

(2) The strategies attempted before the use of the emergency behavior intervention and the child's reaction to those strategies [Medium];

(3) The emergency behavior intervention itself and the child's reaction to the emergency behavior intervention [Medium];

(4) How caregivers can assist the child in regaining self-control in the future to avoid the administration of an emergency behavior intervention [Medium]; and

(5) What the child can do to regain self-control in the future to avoid the administration of an emergency behavior intervention. [Medium]

(c) Caregivers involved in the emergency behavior intervention must:

(1) Debrief with child placement staff concerning the incident as soon as possible after the situation has stabilized [Medium]; and

(2) Make reasonable efforts to debrief with children in care who witness the incident. [Medium]

(d) The child placement staff must review the use of the emergency behavior intervention within 72 hours of the intervention. [Medium-Low]

(e) The caregivers do not have to return the child to previous activities or place the child in current activities that the group is participating in if the caregivers deem the child's participation is not in the best interests of the child or the other children in the group. However, caregivers must engage the child in an alternative routine activity.

(f) This rule does not apply to short personal restraint.

§749.2303. What must the caregiver document after discussing with the child the use of the emergency behavior intervention?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 8, General Caregiver Responsibilities, Including Documentation, After the Administration of Emergency Behavior Intervention

September 2010

The caregiver must document the following after discussing with the child the use of the emergency behavior intervention:

(1) The date and time the caregiver offered the discussion [Medium-Low];

(2) The child's reaction to the opportunity for discussion [Medium-Low];

(3) The date and time the discussion took place, if applicable [Medium-Low]; and

(4) The content of the discussion, if applicable. [Medium]

§749.2305. When must a caregiver document the use of an emergency behavior intervention, and what must the documentation include?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 8, General Caregiver Responsibilities, Including Documentation, After the Administration of Emergency Behavior Intervention

January 2017

(a) As soon as possible, but no later than 24 hours after the initiation of the intervention, the caregiver must document in the child's record the following information [Medium]:

(1) The child's name [Medium];

(2) A description and assessment of the circumstances and specific behaviors that caused the basis for the emergency behavior intervention [Medium];

(3) The de-escalation attempted before and during the use of the emergency behavior intervention and the child's reaction to those strategies [Medium];

(4) The specific emergency behavior intervention administered [Medium];

(5) The date and time the intervention was administered [Medium];

(6) The length of time the child was restrained [Medium];

(7) The name of the caregiver(s) that participated in the incident that led to the intervention, and who administered the intervention [Medium];

(8) The name of the person(s) who observed the child [Medium];

(9) The names of any witnesses to the emergency behavior intervention, including child witnesses in the home [Medium];

(10) All attempts to explain to the child what behaviors were necessary for release from the intervention [Medium];

(11) The child's condition following the use of the medication or release from the intervention, including any injury the child sustained as a result of the intervention or any adverse effects caused by the use of the intervention. If the child received medical assistance or treatment, the caregiver must document the name of the person(s) who provided medical assistance or treatment [Medium]; and

(12) The actions the caregiver(s) took to facilitate the child's return to normal activities following the end of the intervention. [Medium-High]

(b) The child placement staff must document their review of the use of the emergency behavior intervention within 72 hours of the incident. [Medium]

(c) If personal restraint is used, documentation must also include the specific restraint techniques used, including a prone or supine restraint used as a transitional hold. [Medium]

(d) If emergency medication is used, documentation must also include the specific medication used and the dosage administered to the child. [Medium-High]

(e) This rule does not apply to short personal restraints.

§749.2307. What notice must I provide to the parent when I use an emergency behavior intervention with a child in care?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 8, General Caregiver Responsibilities, Including Documentation, After the Administration of Emergency Behavior Intervention

April 2022

(a) As soon as possible, but no later than 72 hours after the initiation of the intervention, you must provide written notice to the parent that includes [Medium]:

(1) The child's name [Medium];

(2) The specific emergency behavior intervention administered [Medium];

(3) The length of time the child was restrained [Medium];

(4) The child's condition following the use of the medication or release from the intervention, including:

(A) Any injury the child sustained as a result of the intervention or any adverse effects caused by the use of the intervention [Medium]; and

(B) If the child received medical assistance or treatment, the name of each person who provided the medical assistance or treatment [Medium];

(5) If a personal restraint was used, the specific restraint technique used, including a prone or supine restraint used as a transitional hold [Medium]; and

(6) If emergency medication was used, the specific medication used and the dosage administered to the child. [Medium]

(b) A copy of the documentation provided to the parent must be maintained in the child's record. [Medium]

(c) This rule does not apply to short personal restraints.

Technical Assistance
Regarding subsection (a), if the incident report has the information required by this subsection and constitutes what was provided to the parents, a copy of the incident report in the child's record will suffice.

Division 9, Triggered Reviews

§749.2331. What circumstances trigger a review of the use of emergency behavior intervention for a specific child?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 9, Triggered Reviews

February 2017

(a) The following circumstances trigger a review for certain emergency behavior interventions:

Types of Emergency Behavior Intervention	Circumstances that trigger a review:
(1) Short personal restraint	Not applicable, because short personal restraints are not monitored.
(2) Personal restraint	Except as provided by subsection (b) of this section: (A) The same child is personally restrained [Medium-High]: (i) four times within a seven-day period; or (ii) more than 12 times in a single 30-day period; or (B) The same child is personally restrained more often than the written order or service planning team recommendation allows. [Medium-High]
(3) Emergency medication	Emergency medication is used on the same child three times in a 30-day period. [Medium-High]

(b) You may exceed the number of restraints otherwise allowed in (2) Personal restraint of Figure: 40 TAC §749.2331(a) for a child if a licensed psychiatrist or psychologist issues a written order or if a service planning team makes a recommendation allowing you to do so and you ensure the following:

(1) If applicable, the recommendation from the service planning team includes the same written information as an order, as specified in §749.2105 of this title (relating to What information must a written order include?); and

(2) At least one triggered review is conducted in accordance with §749.2337 of this title (relating to What must the triggered review include and what must be documented in the child's record?) every 30 days that personal restraints in excess of the threshold are authorized.

§749.2333. When must a triggered review occur?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 9, Triggered Reviews

January 2007

(a) A triggered review must occur as soon as possible, but no later than 30 days after the review is triggered. [Medium-High]

(b) The regularly scheduled review of the child's service plan can serve as the triggered review if it meets the requirements in §749.2337 of this title (relating to What must the triggered review include and what must be documented in the child's record?) and takes place no later than 30 days after the review is triggered. [Medium-High]

§749.2335. Who must participate in the triggered review?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 9, Triggered Reviews

February 2017

(a) The service planning team must participate in the triggered review. [Medium-High]

(b) You must invite the child, as appropriate, and the parents to the review, so they may have the opportunity to participate and provide input into the content of the review. However, you are not required to delay a review because a parent or child is unable to participate in the review at its scheduled time. [Medium-High]

§749.2337. What must the triggered review include and what must be documented in the child's record?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 9, Triggered Reviews

February 2017

(a) Except in cases in which the regularly scheduled review of the child's service plan also addresses the requirements of a triggered review in accordance with §749.2333(b) of this title (relating to When must a triggered review occur?), a triggered review is not a full review of the child's service plan and is focused on the requirements identified in subsection (c) of this section.

(b) Other than the requirements in this section and in §749.2335 of this title (relating to Who must participate in the triggered review?), the notification, participation, implementation, and documentation requirements in Division 4 of Subchapter I (relating to Admission, Service Planning, And Discharge) do not apply to a triggered review.

(c) The following must be included in a triggered review and documented in the child's record:

(1) A review of the records and orders of the emergency behavior interventions [Medium-High];

(2) A review and documentation of any potential medical or psychiatric reason for not using emergency behavior interventions on the child, including the prescribing professional's consideration of any potential medical and/or psychiatric contraindications for the specific child, such as a history of physical or sexual abuse or victimization involving the type of intervention [Medium-High];

(3) An examination of identified behaviors and patterns, any significant events leading up to the use of emergency behavior intervention, and all attempted de-escalation methods, whether successful or unsuccessful [Medium-High];

(4) Identification of alternatives to manage the child's behavior and more effectively prevent the use of emergency behavior intervention in the future [Medium-High]; and

(5) A written plan for reducing the need for emergency behavior intervention. [Medium-High]

§749.2339. What if there are four triggered reviews within a 90-day period?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 9, Triggered Reviews

January 2007

If there are four triggered reviews within a 90-day period:

(1) A licensed psychiatrist, psychologist, clinical social worker, professional counselor, or marriage and family therapist must examine the child [Medium-High]; and

(2) The licensed professional must make service plan recommendations regarding the use of emergency behavior interventions. You must document these recommendations in the child's record. [Medium-High]

Division 10, Overall Agency Evaluation

§749.2381. What is an overall agency evaluation?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 10, Overall Agency Evaluation

January 2007

(a) The overall agency evaluation is an annual review regarding:

(1) The use and effectiveness of emergency behavior interventions at your agency [Medium]; and

(2) Your emergency behavior intervention policies and procedures, including the training policy and curriculum. [Medium]

(b) The objectives of the evaluation are to:

(1) Develop and maintain an environment that supports positive and constructive behaviors of children in care [Medium];

(2) Use any type of emergency behavior intervention safely, appropriately, and effectively [Medium]; and

(3) Eliminate or reduce physical injuries and any other negative side effects on the child's behavior or emotional development resulting from the emergency behavior interventions. [Medium]

(c) One focus of the evaluation must be on:

(1) The frequency, patterns, and effectiveness of the types of emergency behavior intervention techniques that are used for all children in your foster homes [Medium];

(2) Strategies to reduce the need for emergency behavior interventions for all children in your foster homes [Medium]; and

(3) Specific strategies to reduce the need for use of specific types of emergency behavior intervention techniques for all children in your foster homes. [Medium]

(d) The results of each overall agency evaluation must be made available to us for review. [Medium]

§749.2383. What data must be collected?

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 10, Overall Agency Evaluation

April 2022

(a) Quarterly, you must collect, document, and review aggregate numbers of emergency behavior interventions by type of intervention except for short personal restraints. [Medium]

(b) This information must be reported to us no later than 15 days after the end of each quarter. [Medium]

(c) You must maintain the data for five years. [Medium]

Technical Assistance
You must use the provider login section of the HHSC Child Care Regulation web site to report quarterly emergency behavior intervention statistics to Licensing. Please note that you are expected to submit a report even if no emergency behavior interventions were used within your operation during the quarter. The quarterly data on emergency behavior interventions is due to CCR at the end of each quarter. Since the current minimum standards went into effect on January 2007, this is when the data collection was expected to begin. The quarterly reports are based on this start date. Therefore, quarterly reports should represent the following time frames each calendar year: ● Quarter 1 − January through March ● Quarter 2 − April through June ● Quarter 3 − July through September ● Quarter 4 − October through December

Subchapter M, Foster Homes: Screenings and Verifications

Division 1, General Requirements

§749.2401. In what circumstances may I verify an individual spouse as a foster parent?

Subchapter M, Foster Homes: Screenings and Verifications

Division 1, General Requirements

June 2021

(a) You may verify only one spouse if:

(1) The spouse whom you verify will be the only one involved in the care of any foster child in the home;

(2) The spouses have been living apart for at least two years; and

(3) After interviewing the spouse living outside of the foster home as part of the screening process, you determine that the spouse will not:

(A) Have unsupervised access to foster children, as "unsupervised access" is defined in §745.601 of this title (relating to What words must I know to understand this subchapter); or

(B) Regularly or frequently be present at the foster home, as defined in §745.601 of this title.

(b) If the requirements in subsection (a) of this section are not met, you must verify both spouses to provide foster care [Medium-High].

(c) If at any time the requirements in subsection (a) are no longer being met, the change in circumstances:

(1) Is considered a "major life change in the foster family";

(2) Requires an update to the foster home screening, as required by §749.2453 of this chapter (relating to When must I update the foster home screening?); and

(3) Requires closure of the foster home or adding the spouse to the verification certificate [Medium-High].

Technical Assistance
• For subsection (a), if these requirements are met, it is unlikely that the spouse who lives outside of the home will require a background check in relation to the foster home. However, you are responsible for submitting a background check request for the spouse if the spouse requires one under §745.605. • For subsection (c), in addition to the requirements noted here for a "major life change in the foster family" there are other requirements that a foster family and a child placing agency must follow, including: o A foster home must notify a child-placing agency of any "major life change in the foster family," see §749.2655; o A child-placing agency must evaluate the foster home for compliance with relevant minimum standards when there is a major life change, see §745.2801 and §745.2807; and o A major life change must be documented and evaluated during quarterly supervisory visits, see §745.2815.

§749.2403. What minimum age requirement must foster parents and caregivers meet?

Subchapter M, Foster Homes: Screenings and Verifications

Division 1, General Requirements

January 2017

Each caregiver in a home that you verify must be at least 21 years old. [Medium-High]

§749.2405. Will my home have to be re-verified if I am a single foster parent and I get married after my home is verified?

Subchapter M, Foster Homes: Screenings and Verifications

Division 1, General Requirements

January 2007

Yes, you will have to re-verify that home in both spouse's names. [Medium]

§749.2407. May a home be verified or approved by more than one child-placing agency simultaneously?

Subchapter M, Foster Homes: Screenings and Verifications

Division 1, General Requirements

September 2010

(a) A home may not be verified to provide foster care services by more than one child-placing agency at one time. [Medium-High]

(b) A home may be simultaneously verified by one child-placing agency for foster care services only and approved by another child-placing agency(ies) for adoption only.

Division 2, Foster Home Screenings

§749.2445. What is a foster home screening?

Subchapter M, Foster Homes: Screenings and Verifications

Division 2, Foster Home Screenings

January 2017

(a) You must complete a foster home screening prior to verifying the foster home. [High]

(b) Your child placement management staff must review and approve each foster home screening. [Medium-High]

(c) The foster home screening must document:

(1) Required information (see §749.1819 of this title (relating to What information must I obtain for the foster home screening?)) [Medium];

(2) An assessment of the information obtained to determine whether the applicant meets the requirements for verification [Medium]; and

(3) An evaluation of the information obtained in order to make recommendations about the applicant's capacity to work with children, including but not limited to age, gender, special needs, and number of children. [Medium]

(d) Regarding §749.2447(7) of this title, you must report to Licensing only the information obtained about the prospective foster family's domestic violence history, as applicable. You must report this information regardless of whether you verify the home. [Medium-High]

§749.2447. What information must I obtain for the foster home screening?

Subchapter M, Foster Homes: Screenings and Verifications

Division 2, Foster Home Screenings

June 2021

You must obtain, document, and assess the following information about a prospective foster home:

Required Information	Description of Discussion, Assessment and Documentation Requirements
(1) The age of the prospective foster parents. Ages of all other members of the household.	All prospective foster parents must be at least 21 years old. You must document the ages of all household members. [Medium]
(2) The educational level of the prospective foster parents.	You must ensure and document that each foster parent is able to comprehend and benefit from training and provide appropriate care and supervision to meet the needs of children in care, in areas such as health, education, and discipline/behavior management, by doing either or both of the following [Medium]: (A) Require that foster parents have a high school diploma or a G.E.D. high school equivalency. The Texas Education Agency (TEA) or another public education entity outside of Texas must recognize the high school program or high school equivalent program; or (B) Screen each foster parent without a high school diploma or G.E.D. to ensure that each foster parent: (i) Is able to be an appropriate role model for children in placement; (ii) Is able to communicate with the child in the child's own language, or has other means to communicate with the child in the child's own language; and (iii) Meets the basic competencies that would otherwise be met by a high school diploma or G.E.D., including basic reading, writing, and math.

Required Information	Description of Discussion, Assessment and Documentation Requirements
(3)Personal characteristics.	You must document information from foster parents that demonstrate your assessment of: (A)Emotional stability, good character, good health, and adult responsibility [Medium-High]; and (B)The ability to provide nurturing care, appropriate supervision, reasonable discipline, and a home-like atmosphere for children. [Medium-High]
(4)History of current and previous interpersonal relationships, including marriages, common-law marriages, and other relationships between people who share or have shared a domestic life without being married.	You must document information about the marital status of the foster parents, including the present marital status, as well as a history of previous marriages or significant interpersonal relationships. You must include a description of the marriage or relationship, including reasons why any previous marriages or significant interpersonal relationships were ended. [Medium]
(5)A history of the prospective foster parents' residence and their citizenship status.	You must document the: (A)Length of time spent at each residence for the past 10 years (street address, city, state) [Medium-Low]; and (B)Citizenship of the prospective foster parents. [Medium-Low]

Required Information	Description of Discussion, Assessment and Documentation Requirements
(6) The financial status of the prospective foster family.	(A) You must discuss with the prospective foster parents the current reimbursement process, if applicable, and assess the foster parents' understanding of that process. [Medium] (B) You must verify and document that the prospective foster parents have sufficient up-front income or other readily available assets to support their household and all children in care prior to receiving the foster care reimbursement for services provided. For each prospective foster parent you must obtain, document and assess the following [Medium]: (i) Proof of income for the past 60 days or two complete calendar months. Disability, social security, and/or other sources of income such as family support, Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF) must be included, as applicable [Medium]; (ii) A copy of two consecutive itemized bank statements and/or the previous year's tax return. The bank statements must be related to the previous two calendar months prior to the date of application. If a foster family does not have two consecutive itemized bank statements or a previous year's tax return, then you must copy and document the evidence used to verify the financial status of the prospective foster family, including documenting the information used to verify the itemized monthly household expenses [Medium]; and (iii) A monthly household expense report itemizing the following expenses [Medium]: (I) Mortgage/Rent; (II) Utilities; (III) Transportation; (IV) Food; (V) Medical; (VI) Clothing; (VII) Insurance; (VIII) Credit cards and loans; (IX) Legal (i.e. attorney fees, alimony and/or child support); (X) Pet; and (XI) Entertainment/miscellaneous.

Required Information	Description of Discussion, Assessment and Documentation Requirements
(7) The results of criminal history and central registry background checks conducted on the prospective foster parents and any non-client person 14 years of age or older who regularly or frequently stays or is present in the home.	(A) Persons applying to foster children and any person, excluding clients, 14 years of age or older who will regularly or frequently be staying or present at the home, must obtain a criminal history and central registry background check. See Chapter 745, Subchapter F of this title (relating to Background Checks). The specific results of those checks must be documented and assessed in the foster home screening and the foster home record. Any assessments of other parts of a home screening must include and assess relevant background check result information. For example, the paragraphs (3) and (6) about a foster family's personal characteristics and financial status should consider and assess a misdemeanor theft by check, even though this crime is not a bar to becoming a foster parent. [High] (B) With respect to law enforcement service call information, you must do the following: (i) Obtain service call information from the appropriate law enforcement agency for each of the prospective foster parents' addresses over the past two years. Discuss with the prospective foster parents any service call information that you obtain from a law enforcement agency and the facts surrounding the incident. [High] (ii) Whether results were found or not, ask the prospective foster parents whether any law enforcement agency has responded to any of their residences in the past two years. If you obtain additional information from the prospective foster parents, request background information from each law enforcement agency that responded. Discuss the incident and any additional background information that you obtain with the prospective foster parents. [High] (iii) Assess and document information obtained from law enforcement and any discussion with the prospective foster parents in the foster home screening. [High]
(8) The prospective foster parents' motivation to provide foster care.	Assess and document the prospective foster parents' motivation and willingness to provide foster care. [Medium]

Required Information	Description of Discussion, Assessment and Documentation Requirements
(9) Health status of all persons living in the home.	Discuss, assess, and document information about the physical and mental health status (including substance abuse history) of all persons living in the home in relation to the family's ability to provide foster care. You must discuss whether any health- related issues noted may affect the prospective foster parent's ability to care for a child in care. You must also observe these persons for any indication of problems and follow up, where indicated, with a professional evaluation. Document the information obtained through your observations and, if applicable, professional evaluations. [Medium]
(10) The quality of the current interpersonal relationship, including marriage, common- law marriage, or a relationship between people who share a domestic life without being married, and family relationships.	Discuss, assess, and document the quality of current and previous interpersonal and family relationships in relation to the family's ability to provide foster care. You must discuss and assess the stability of a couple's current and previous relationships, the strengths and problems of the relationship, and how those issues will affect the current environment and the prospective foster parents' ability to care for any foster children placed in the home. You must discuss and assess the quality of the relationships between prospective foster parents and their children, living in or out of the home, strengths and problems of those relationships, and how those issues will relate to foster children placed in the home. [Medium]
(11) The prospective foster parents' feelings about their childhoods and parents.	Discuss, assess, and document the prospective foster parents' feelings about their childhoods and parents, including any history of abuse or neglect and their resolution of those experiences. [Medium]
(12) The prospective foster parents' attitudes about a foster child's or his biological family's religion.	Discuss, assess, and document the prospective foster parents on [Medium-Low]: (A) Their willingness to respect and encourage a child's religious affiliation, if any [Medium-Low]; (B) Their willingness to provide a child the opportunity for religious and spiritual development, if desired [Medium-Low]; and (C) The health protection they plan to give a child if a foster parent's religious beliefs prohibit certain medical treatment. [Medium-High]

Required Information	Description of Discussion, Assessment and Documentation Requirements
(13) The prospective foster parents' values, feelings, and practices in regard to child care and discipline.	Discuss, assess, and document the applicants' knowledge of child development and their child-care experience. Discuss and assess the ways the applicants were disciplined as children and their reactions to the discipline they received. Discuss and assess the prospective foster parents' discipline styles, techniques, and their ability to recognize and respect differences in children and use discipline methods that suit the individual child. Discuss your approved disciplinary methods, which must comply with Subchapter K, Division 6 of this chapter (relating to Discipline and Punishment). If the prospective foster parents' current discipline methods are different than those that you approve, discuss and assess how they would change their child-care practices to conform to your approved methods. [Medium-High]
(14) The prospective foster parents' sensitivity to and feelings about children who may have been subjected to abuse or neglect.	Discuss, assess, and document the prospective foster parents' understanding of the dynamics of child abuse and neglect. Discuss and assess their understanding of how these issues and experiences will affect them, their families, and foster children in their care. Discuss and assess the prospective foster parent's ability to help children who have been abused or neglected. If a prospective foster parent experienced abuse or neglect as a child, assess his handling of those experiences and the impact of those experiences on the applicant's ability to help children deal with their own experiences. Assess the availability of family and community resources to meet the needs of the children in the family's care. [Medium-High]
(15) The prospective foster parents' sensitivity to and feelings about children's experiences of separation from or loss of their biological families.	Discuss, assess, and document the prospective foster parents' understanding of the dynamics of separation and loss and the effects of these experiences on children. Discuss and assess their personal experiences with separation and loss and their processing of those experiences. Assess the potential foster parents' acceptance of the process of grief and loss for children and assess their ability to help a child through the grieving process. [Medium]

Required Information	Description of Discussion, Assessment and Documentation Requirements
(16) The prospective foster parents' sensitivity to, and feelings about, a child's biological family.	Discuss, assess, and document the prospective foster parents' feelings about the child's parents, including the issue of abuse or neglect of the child by the child's parents or other family members. Discuss and assess their sensitivity and reactions to the child's parents. Discuss and assess their sensitivity to and acceptance of a child's feelings about the child's parents and assess their ability to help the child deal with those feelings. Discuss and assess the prospective foster parents' sensitivity to and acceptance of the child's relationships with the child's siblings. Discuss and assess their willingness to support the child's relationships with parents, siblings, and extended family including their support for contacts between the child and the child's family. [Medium-Low]
(17) The attitude of other household members about the prospective foster parents' plan to provide foster care.	Discuss, assess, and document the attitudes of other household members toward the plan to provide foster care. Discuss and assess their involvement in the care of foster children, their attitudes toward foster children, and their acceptance of the verification as a foster family. [Medium]
(18) The attitude of the prospective foster parents' extended family regarding foster care.	Discuss, assess, and document the extended family's attitude toward foster care and foster children and the involvement the extended family will have with foster children. Discuss and assess the impact the extended family's attitudes will have on the family's ability to provide foster care and whether the extended family will serve as a support system for the foster family and for foster children. [Medium]

Required Information	Description of Discussion, Assessment and Documentation Requirements
(19) Support systems available to prospective foster parents.	Discuss, assess, and document the support systems available to each foster parent and the support the family may receive from these resources. You must ask each prospective foster parent for information about any person who may provide support as a caregiver during an unexpected event or crisis situation, such as an illness or disability of a foster parent, loss of transportation, or the death of an immediate family member. Verify and document identifying information and availability of each person that will provide support as a caregiver. Any of these persons will need a fingerprint-based criminal history check before acting as a caregiver. Unless the person will be a caregiver immediately after you verify the home, the background check on the person does not have to be completed before you verify the home. [Medium]
(20) The prospective foster parents' expectations of and plans for foster children.	Discuss, assess, and document the prospective foster parents' expectations of the child and the flexibility of their expectations in relation to the child's actual needs and abilities. Discuss and assess their capacities to recognize and emphasize the strengths and achievements of the child and their capacities to adjust their expectations according to the abilities of the child. [Medium-High]
(21) The language(s) spoken by the prospective foster parents.	Document the language(s) spoken by each prospective foster parent. [Medium]

Required Information	Description of Discussion, Assessment and Documentation Requirements
(22) Prospective foster parent's ability to work with specific kinds of behaviors and backgrounds.	(A) Discuss, assess, and document each prospective foster parent's willingness and ability to work with specific and challenging behaviors of foster children, including such things as backgrounds, special needs and/or disabilities. [Medium-High] (B) Discuss, assess, and document the prospective foster parents' understanding of the concepts of trauma informed care and how they would use those concepts in the care, treatment, and management of children placed in their home. [Medium-High] (C) Discuss, assess and document the prospective foster parents' willingness and ability to: (i) Care for and work with children of a specific gender [Medium-High]; (ii) Care for and work with children of a specific age range [Medium-High]; (iii) Care for a specific number of children, including whether or not the children are part of the same sibling group [Medium-High]; (iv) Provide respite care services to any additional number of children of a specific gender, within a specific age range, and with special needs that the family will not be providing care for full time [Medium-High]; and (v) Provide any additional services Licensing regulates according to §749.61 of this title (relating to What types of Services does Licensing regulate?). [Medium-High]

Required Information	Description of Discussion, Assessment and Documentation Requirements
(23) Background information from other child-placing agencies.	(A) Request, assess, and maintain the background information that a child-placing agency must provide you, as described in §749.2475 of this subchapter (relating to To whom must I release information regarding a family on which I previously conducted a foster home screening, pre-adoptive home screening, or post placement adoptive report?) [Medium] (B) You must address and document the closure or any identified risk indicators, as applicable, with the prospective foster parents before approval and verification of the home if the background information indicates that: (i) The foster home was previously closed by a child-placing agency [Medium]; or (ii) There was one or more potential risk indicators that the child placing agency did not adequately address with the foster parents. [Medium]

§749.2449. Whom must I interview when conducting a foster home screening?

Subchapter M, Foster Homes: Screenings and Verifications

Division 2, Foster Home Screenings

June 2021

(a) Interviews for a foster home screening must be documented and must include at least:

(1) One individual interview with each prospective foster parent [Medium];

(2) One individual interview with each child three years old or older living in the home either full- or part-time [Medium];

(3) One individual interview with each other person living in the home either full- or part-time [Medium];

(4) One joint interview with the prospective foster parents [Medium];

(5) One family group interview with all family members living in the home [Medium];

(6) One interview, by telephone, in person, or by letter, with each minor child 12 years old or older or adult child of the prospective foster parents not living in the home [Medium];

(7) A minimum of one interview, by telephone, in person, or by letter with a family member not living in the home and not already interviewed [Medium]; and

(8) A minimum of two interviews, by telephone, in person, or by letter with neighbors, school personnel if the prospective foster parents have school age children, clergy, or any other member of the prospective foster parents' community who are unrelated to the foster parents and can provide a description of the prospective foster parents' suitability to provide care for children. [Medium]

(b) You must visit the home at least once when all members of the household are present. [Medium-High]

(c) For subsection (a)(6) of this section, if you are unsuccessful in contacting an adult child, you may omit the interview with the adult child if you document your diligent efforts to locate the adult child in the home screening. Diligent efforts require at least three attempts to locate the adult child, multiple methods of contact (i.e. in person or virtual, by telephone, or by letter), as applicable, and discussions with the prospective foster parents and any other relevant persons about the location of the adult child. [Medium]

Technical Assistance
Interviews do not have to be face-to-face. For example, they can be a virtual, video, or phone interview. Subsection (b) does require at least one visit to the home when all members of the house are present.

§749.2451. What must I document regarding interviews I conduct for a foster home screening?

Subchapter M, Foster Homes: Screenings and Verifications

Division 2, Foster Home Screenings

January 2017

(a) You must document all interviews of persons you are required to interview for a foster home screening. [Medium-Low]

(b) The documentation must include the date and method used to contact each required person, the date of each interview, who was present at each interview, their relationship to the prospective foster parents, and a summary of each interview. [Medium-Low]

(c) This documentation must be a part of the foster home record. [Medium-Low]

§749.2453. When must I update the foster home screening?

Subchapter M, Foster Homes: Screenings and Verifications

Division 2, Foster Home Screenings

January 2017

(a) You must update a foster home screening, as follows:

(1) Under the circumstances described in §749.307(a) of this title (relating to What happens to the foster homes supervised by a branch office when the branch office closes?) [Medium];

(2) When there is a major life change in the foster family as described in §749.2805 of this title (relating to What is a "major life change in the foster family"?) [Medium]; and

(3) When there is a change that affects a foster home's verification as described in §749.2803 of this title (relating to What changes affect a foster home's verification?). [Medium]

(b) A foster home screening update may be made by using an addendum.

(c) You must complete a foster home screening update that is needed under the circumstances described in §749.307(a) of this title before issuing a new verification certificate. [Medium]

(d) You must do the following when updating a foster home screening because of a major life change in the foster family:

(1) Assess the appropriateness of any current placement of children in the foster home, immediately upon notification [Medium]; and

(2) Complete the update within 30 days of the notification of the major life change. [Medium]

Division 3, Verification of Foster Homes

§749.2470. What must I do to verify a foster family home?

Subchapter M, Foster Homes: Screenings and Verifications

Division 3, Verification of Foster Homes

June 2021

(a) You must take the following steps to verify a foster family home:

(1) Complete and document the requirements for §749.2447 of this subchapter (relating to What information must I obtain for the foster home screening?);

(2) Complete and document the required interviews as specified in §749.2449 of this subchapter (relating to Whom must I interview when conducting a foster home screening?);

(3) Obtain the following:

(A) A floor plan of the home that shows the dimensions and purposes of all rooms in the home and identifies the indoor areas for children's use [Medium-Low]; and

(B) A sketch or photo of the outside areas that shows the buildings, driveways, fences, storage areas, gardens, recreation areas, and pools, ponds, or other bodies of water [Medium-Low];

(4) Inspect the home to ensure and document that the home meets the appropriate rules of this chapter, including [Medium-High]:

(A) Subchapter K of this chapter (relating to Foster Care Services: Daily Care, Problem Management); and

(B) Subchapter O of this chapter (relating to Foster Homes: Health and Safety Requirements, Environment, Space and Equipment), including a:

(i) Health inspection; and

(ii) Fire inspection;

(5) If the home will provide a transitional living program, ensure the home complies with the policies developed according to §749.125 of this chapter (relating to What policies must I develop for foster parents who offer a transitional living program?) [Medium];

(6) Evaluate all areas required in this subchapter and make recommendations about the home's ability to care for and work with children with respect to a child's gender and age, the number of children, and the types of services to be provided [Medium-High];

(7) If there are any indicators of potential risk to children based on the assessment and evaluation of an area required in this subchapter, document the indicators and how you addressed them with the prospective foster family before approval and verification of the home [Medium];

(8) Obtain from the child placement management staff the review and approval of the home screening, and the recommended verification of the home [Medium]; and

(9) Issue a verification certificate that specifies the [Medium-Low]:

(A) Name of the foster family home [Low];

(B) Foster family home address and location [Low];

(C) Foster family home's total capacity, which includes the biological and adopted children of the caregivers who live in the foster family home, any children receiving foster care or respite child-care, and any children for whom the family provides day care [Low];

(D) Foster family home's foster care capacity, a subset of the total capacity, which includes only children placed for foster care or respite child-care [Low];

(E) Gender and ages of children for which the home is verified to provide foster care or respite child-care [Low];

(F) Types of services the foster family home will provide [Low];

(G) Agency's main office or branch office, which issued the verification [Low]; and

(H) Expiration date of a time-limited verification, if applicable. [Low]

(b) You can verify a foster home before the foster parents complete the pre-service training. However, foster parents must comply with the training requirements described in §749.863 of this subchapter (relating to What are the pre-service training requirements for a caregiver?) before you may place a child in the home.

§749.2473. What must I do to verify a foster home that another child-placing agency has previously verified?

Subchapter M, Foster Homes: Screenings and Verifications

Division 3, Verification of Foster Homes

June 2021

(a) When a home has previously been verified by another agency, you must conduct and complete an entirely new home screening and comply with all of the requirements in §749.2471 of this title (relating to What must I do to verify a foster home?). [Medium]

(b) If the foster home is transferring from another child-placing agency, you must submit a written request to the agency that the foster home is transferring from requesting the background information required in §749.2447(23) of this title (relating to What information must I obtain for the foster home screening?). [Medium]

(c) If the foster home is transferring from another child-placing agency, with a child in care, you may verify the foster home prior to completion of the background check. [Medium]

(d) For a provisional verification, see Division 4 of this subchapter (relating to Temporary, Time-Limited, and Provisional Verifications).

§749.2475. To whom must I release information regarding a family on which I previously conducted a foster home screening, pre-adoptive home screening, or post placement adoptive report?

Subchapter M, Foster Homes: Screenings and Verifications

Division 3, Verification of Foster Homes

January 2017

(a) If background information is requested by a child-placing agency conducting a foster home screening, pre-adoptive home screening, or post placement adoptive report, then you must release background information regarding the current or previous foster home. [Medium]

(b) Background information must also be released to independent contractors who are hired or required by the court to conduct a social study under §107 of the Texas Family Code. [Medium]

(c) For the purposes of this section, background information includes:

(1) A foster home screening, pre-adoptive home screening, and post placement adoptive report and related documentation;

(2) Documentation of supervisory visits and evaluations for the past year;

(3) Any record of deficiencies and their resolutions for the past year, including information regarding pending investigations and unresolved deficiencies;

(4) The most current fire and health inspections;

(5) The transfer/closing summary for the foster home, as required by §749.2497 of this title (relating to Are transfer/closing summaries required for foster homes?);

(6) Copies of any current or previous plan to achieve compliance or other type of development plan for the past two years, if applicable; and

(7) Copies of any current or previous corrective action or adverse action plans for the past two years, if applicable.

(d) You must release the background information to the requesting agency by the 10th day after receiving the written request, including informing the requesting agency of any pending investigations and/or unresolved deficiencies. By the 10th day after the completion of any pending investigations and/or the resolution of any deficiencies, you must release to the requesting agency the [Medium]:

(1) Outcome of any investigations and any resulting deficiencies cited [Medium]; and

(2) Resolution of any deficiencies. [Medium]

Technical Assistance
Chapter 42 of the Human Resources Code, §42.0535, specifies immunity from civil and criminal liability when releasing background information on a foster home in compliance with law and rule: a. A child-placing agency that seeks to verify an agency home or an agency group home shall request background information about the agency home or group home from a child-placing agency that has previously verified that agency home or agency group home. b. Notwithstanding Section 261.201, Family Code, a child-placing agency that has verified an agency home or an agency group home is required to release to another child-placing agency background information requested under Subsection (a). c. A child-placing agency that releases background information under this section is immune from civil and criminal liability for the release of the information. A child-placing agency is not required to release information to another child-placing agency on a potential home with whom they worked but did not complete a home screening/home study.

§749.2477. May I verify a foster home prior to approval by child placement management staff?

Subchapter M, Foster Homes: Screenings and Verifications

Division 3, Verification of Foster Homes

January 2007

No. Before you can verify a foster home, child placement management staff must:

(1) Review and approve the verification, including the documented foster home screening, home study, and other requirements [Medium-High]; and

(2) Sign and date the document. [Medium-Low]

§749.2479. May I place children in a foster home before verifying the home?

Subchapter M, Foster Homes: Screenings and Verifications

Division 3, Verification of Foster Homes

January 2007

No, you cannot place children in a foster home before completing the foster home screening and verification. [Medium-High]

§749.2481. What type of certificate must a foster home have in order to prove verification?

Subchapter M, Foster Homes: Screenings and Verifications

Division 3, Verification of Foster Homes

January 2007

(a) You must give the home a verification certificate after:

(1) Verifying the home [Low]; and

(2) Making any change that affects the verification certificate. [Low]

(b) The home must post the current verification certificate or have it immediately available upon request. [Low]

§749.2483. Do foster parent applicants have to own the home they live in for it to be their primary residence?

Subchapter M, Foster Homes: Screenings and Verifications

Division 3, Verification of Foster Homes

January 2007

No, they do not have to own or rent the home they live in for it to be considered their primary residence.

§749.2485. What are the requirements for verifying a foster home at a residence that I own?

Subchapter M, Foster Homes: Screenings and Verifications

Division 3, Verification of Foster Homes

April 2022

(a) You must verify the home in the name of one foster family for whom the home is the primary residence. You may only verify the home in the name of one foster family. [Medium-Low]

(b) A home is considered a primary residence if the person lives there on a routine basis and [Medium-Low]:

(1) It is the place of residence on their most recent tax return; or

(2) It is the address listed on their motor vehicle registration, driver's license, voter's registration, or other document filed with a public agency.

§749.2487. What are the requirements for an agreement that I have with a foster home that I verify?

Subchapter M, Foster Homes: Screenings and Verifications

Division 3, Verification of Foster Homes

January 2017

(a) You must sign a written agreement with each agency foster home at the time that you verify the home. You and the foster home must each have copies of the signed agreement. You must file a copy of the signed agreement in the agency home record. [Medium-Low]

(b) The agreement must specify the following:

(1) The foster parents' responsibility for complying with rules of this chapter [Medium];

(2) The financial agreement between you and the foster home [Low];

(3) The foster home agrees not to admit a non-relative child for 24-hour care from any source other than you [Medium-Low];

(4) You have the right to remove the child from the home at your discretion [Low];

(5) You must consent to any discharge of a child from the home [Medium-Low];

(6) Visits by the child's parents or relatives must be arranged through you [Medium-Low];

(7) You are responsible for regular supervision of the foster home [Medium-Low];

(8) The foster parents' commitment to comply with your policies regarding child care, discipline, supervision of children, and children's visits or trips away from the foster home [Medium-Low]; and

(9) The foster parents' commitment to comply with your policies about foster parents' reports to you regarding foster children and events or occurrences impacting the provision of foster care. [Medium-Low]

§749.2488. What statement must I provide to foster parents regarding foster parent and child-placing agency rights and responsibilities?

Subchapter M, Foster Homes: Screenings and Verifications

Division 3, Verification of Foster Homes

January 2017

(a) You must provide foster parents with a written copy of the following statement that lists the rights and responsibilities of foster parents and the child-placing agency [Medium]:

(1) Foster parents have the right to be treated with dignity, respect, and consideration as a member of the service planning team [Low];

(2) Foster parents have the right and responsibility to participate in service planning and implementation of the service plan [Low];

(3) Foster parents have the right and responsibility to obtain training that will assist them in meeting the needs of children placed in their home [Medium];

(4) The child-placing agency has a responsibility to assist foster parents in identifying training that will enhance the foster parents ability to meet the needs of children placed in their home [Medium];

(5) Foster parents and the child-placing agency have the responsibility to communicate with each other in a timely and effective manner [Low];

(6) Foster parents have the right to be reimbursed for care of the children placed in their home in a timely manner and according to the child-placing agency's policy [Low];

(7) The child-placing agency has the responsibility to provide relevant information about a child to foster parents when placing or considering placing the child [Medium];

(8) Foster parents have the right and responsibility to obtain information and ask questions about children the child-placing agency would like to place in their home, including requesting a pre-placement visit [Medium];

(9) Foster parents have the right to know how much discretion they have in declining specific placements without fear of negative repercussions [Low];

(10) The child-placing agency has the responsibility to provide support to all of their foster parents and inform them of any services available to foster parents [Low];

(11) Foster parents have the responsibility to report to the child-placing agency and Licensing information as required by the child-placing agency's policies and this chapter [Medium];

(12) Foster parents have the right to appeal child-placing agency actions and decisions that affect them and to know the procedures for making an appeal [Low];

(13) Foster parents have the responsibility to comply with this chapter as applicable [Medium];

(14) The child-placing agency has the responsibility to provide foster parents with support, training, and oversight in order to ensure the foster parents are in compliance, as applicable, with this chapter [Medium]; and

(15) Foster parents have the right to review their foster home record maintained by the child-placing agency. [Low]

(b) You and the foster parents must sign a copy of the statement at the time you verify the home. [Medium-Low]

(c) The foster home must have a copy of the signed statement. [Medium-Low]

(d) You must file a copy of the signed statement in the foster home record maintained by the child-placing agency. [Medium-Low]

(e) At the time you verify the home, you must also provide foster parents with a written copy of your policies relating to §749.121 of this title (relating to What policies must I develop concerning the rights and responsibilities of the child-placing agency and the foster parents?). [Low]

§749.2489. What information must I submit to Licensing about a foster home's verification status?

Subchapter M, Foster Homes: Screenings and Verifications

Division 3, Verification of Foster Homes

June 2021

You must submit information to us within two working days of:

(1) Verifying a new foster home [Medium];

(2) Temporarily verifying a foster home and when the verification is no longer temporary [Medium-Low];

(3) Putting a foster home on inactive status or taking a foster home off of inactive status [Medium-Low];

(4) Changing conditions of the verification for an existing home [Medium-Low];

(5) Extending a time-limited verification [Medium-Low];

(6) Changing a time-limited verification to a non-expiring verification [Medium-Low];

(7) Provisionally verifying a foster home and when the verification is no longer provisional [Medium-Low]; or

(8) Closing a foster home, including [Medium-Low]:

(A) The reason the foster home closed [Medium-Low]; and

(B) The name and contact information of a person at your agency who may be contacted by another child-placing agency to obtain records relating to the closed foster home. [Medium-Low]

§749.2491. May I verify a foster home to provide different services?

Subchapter M, Foster Homes: Screenings and Verifications

Division 3, Verification of Foster Homes

September 2010

(a) You may verify a foster home to provide different services as long as a child placement staff completes an assessment of the home that includes a review of the following [Medium]:

(1) The number, ages, and needs of children to be placed in the home [Medium];

(2) The foster home's capacity to provide each different service and supervise all children appropriately [Medium-High];

(3) The needs of any children currently in the home [Medium]; and

(4) The foster parents' experience and ability to provide each service. [Medium-High]

(b) The child placement staff must sign, date, and document this assessment in the foster home record. The different services permitted must be listed on the verification certificate. [Medium-Low]

(c) Child placement management staff must review and approve the documentation prior to the placement of a child. You must document the review and approval in the record. [Medium-Low]

(d) For each placement of a child into a home verified to provide multiple types of services, a child placement staff must ensure there will be no conflict of care. Examples of conflicts in care are placements that [Medium]:

(1) Place one child at serious risk for harm by another child;

(2) Significantly compromise the care and supervision of any child in care;

(3) Require a level of expertise by the foster parents and/or caregivers that they do not possess; or

(4) Create an environment that is appropriately restrictive for one child but inappropriate for another.

(e) A child needing treatment services may only be placed in a foster home that is verified to provide the treatment services needed by that child. If the treatment service needs of any of the children in a foster home changes and the home is not verified to provide that particular treatment service, the foster parent must notify the child placement staff and a new assessment of the home must be completed, signed, and dated by the child placement management staff. If the foster home is not approved to provide the services after the assessment, then the child must be moved to a placement that can provide the needed services. [Medium]

§749.2493. May a foster home provide day care in addition to foster care?

Subchapter M, Foster Homes: Screenings and Verifications

Division 3, Verification of Foster Homes

April 2022

A foster family home may provide day care in addition to foster care under the following conditions:

(1) The number and ages of children in both types of care must meet all relevant laws and rules, including the requirements listed in §745.375 of this title (relating to May I offer child day care at my agency foster home or independent foster home?) [Medium];

(2) The caregivers can supervise all children appropriately, meet all children's' needs, and protect all children in both foster and day care [Medium];

(3) There is adequate space and there are adequate staff or caregivers to meet all applicable rules [Medium];

(4) The child-placing agency completes a written assessment, signed by child placement management staff, of the [Medium]:

(A) Needs of the children in foster care and how the needs of the children in day care may impact the foster children [Medium]; and

(B) Basis for determining no conflict of care exists in providing the two types of care [Medium]; and

(5) Both the Residential Child-Care and Child Day-Care Divisions of Licensing approve. [Medium]

§749.2495. Do foster home verifications expire?

Subchapter M, Foster Homes: Screenings and Verifications

Division 3, Verification of Foster Homes

June 2021

Only temporary, time-limited, and provisional verifications have expiration dates. All other verifications are non-expiring.

§749.2497. What requirements are there for a transfer or closing summary?

Subchapter M, Foster Homes: Screenings and Verifications

Division 3, Verification of Foster Homes

June 2021

(a) You must have either a transfer summary or closing summary when a foster home transfers to another child-placing agency or closes. This includes when you do not issue a non-expiring verification to a foster home with a time-limited verification, temporary verification, or provisional verification. [Medium]

(b) A transfer summary must be completed by the 10th day after you receive a written request to transfer, and you must forward it immediately to the requesting child-placing agency. [Medium-High]

(c) A closing summary must be completed by the 20th day after the foster home is closed [Medium].

(d) A transfer or closing summary must include:

(1) A copy of the verification certificate [Medium];

(2) The foster home addresses for the past two years and, as needed, directions for rural addresses [Medium];

(3) The length of time the foster parents have been fostering with you [Medium];

(4) For the children that were in care for the last two years [Medium], the:

(A) Number of children fostered;

(B) Type of treatment services provided to each child; and

(C) Reason for each child's discharge from care;

(5) A description of any limitations on verification that were in place for the foster home in caring for and working with children (such as gender, age, number of children, treatment services, special needs, or type of abuse or neglect experienced by the child), regardless of whether the limitation was requested by the foster parent or imposed by you [Medium];

(6) For a closing summary, the reason the foster home is closing, including whether you required the foster home to close [Medium];

(7) For a transfer summary, any pending investigations or unresolved deficiencies [Medium];

(8) For a closing summary, any unresolved deficiencies that had not been corrected and what those deficiencies were [Medium];

(9) Any indicators of risk to children at the time of the transfer or closing and what those indicators are [Medium];

(10) Any plan to achieve compliance or other type of development plan that was in place within the previous 12 months of the date of the transfer or closing [Medium];

(11) Any corrective action or adverse action plan that was in place at the time of the transfer or closing [Medium]; and

(12) A statement concerning whether you would recommend the foster home for verification in the future, including whether you would recommend any limitations or restrictions on the verification, and the basis of your recommendation or lack thereof [Medium].

Division 4, Temporary, Time-Limited, and Provisional Verifications

§749.2520. What is the purpose of a temporary verification?

Subchapter M, Foster Homes: Screenings and Verifications

Division 4, Temporary, Time-Limited, and Provisional Verifications

June 2021

The purpose of a temporary verification is to permit continued care of foster children in a verified foster home when a foster family moves from one residence to another and there is a short-term delay in ensuring the foster home will continue to meet all minimum standards in the new location. For example, fire and health inspections cannot be obtained prior to the move.

§749.2521. What must I do prior to issuing a temporary verification?

Subchapter M, Foster Homes: Screenings and Verifications

Division 4, Temporary, Time-Limited, and Provisional Verifications

December 2010

(a) You may only issue a temporary verification after:

(1) You inspect the new location [Medium];

(2) You determine that the home meets the minimum standards, including all health and safety, environment, and space and equipment standards [Medium]; and

(3) The child placement management staff reviews and approves the temporary verification by signing and dating it. [Low]

(b) You may not use a temporary verification to change the verification conditions (number of children, age, gender, or services provided) of an agency home other than residence address. [Medium-Low]

(c) You may not issue a temporary verification if no children are in placement in the foster home. [Low]

§749.2523. For what length of time can I issue a temporary verification?

Subchapter M, Foster Homes: Screenings and Verifications

Division 4, Temporary, Time-Limited, and Provisional Verifications

January 2007

(a) You may issue a temporary verification for up to six months. [Low]

(b) A temporary verification is valid for no longer than six months from the date the verification is issued. You may not renew the temporary verification. [Low]

§749.2525. Can foster children remain in the foster home while a temporary verification is in effect?

Subchapter M, Foster Homes: Screenings and Verifications

Division 4, Temporary, Time-Limited, and Provisional Verifications

January 2007

Yes, children who were in the care of the foster family at the time of the move may continue to live in the foster home while the temporary verification is in effect. However, you may not make new placements of children into a home that is temporarily verified. [Medium-Low]

§749.2526. What is the purpose of a time-limited verification?

Subchapter M, Foster Homes: Screenings and Verifications

Division 4, Temporary, Time-Limited, and Provisional Verifications

June 2021

The purpose of a time-limited verification is to permit you to limit the length of time a home will be verified by assigning the verification a pre-determined end date, after which the home will no longer be verified to provide foster care. Foster homes with time-limited verifications must meet the same rules as foster homes with non-expiring verifications.

§749.2527. What must I do to issue a time-limited verification?

Subchapter M, Foster Homes: Screenings and Verifications

Division 4, Temporary, Time-Limited, and Provisional Verifications

December 2010

You must issue a time-limited verification according to the same rules and procedures as a non-expiring verification.

§749.2529. For what length of time may I issue a time-limited verification?

Subchapter M, Foster Homes: Screenings and Verifications

Division 4, Temporary, Time-Limited, and Provisional Verifications

December 2010

You may issue a time-limited verification for any length of time you determine to be appropriate.

§749.2531. Can I extend a time-limited verification or change the verification from time-limited to non-expiring?

Subchapter M, Foster Homes: Screenings and Verifications

Division 4, Temporary, Time-Limited, and Provisional Verifications

December 2010

Yes. To extend a time-limited verification or change the verification from time-limited to non-expiring, you must comply with the requirements in Subchapter N of this chapter (relating to Foster Homes: Management and Evaluation).

§749.2533. What is the purpose of a provisional verification?

Subchapter M, Foster Homes: Screenings and Verifications

Division 4, Temporary, Time-Limited, and Provisional Verifications

June 2021

The purpose of a provisional verification is to permit continued care of foster children in a foster home that is transferring from one child-placing agency to another, whether in the current residence or a new residence.

§749.2535. What must I do prior to issuing a provisional verification?

Subchapter M, Foster Homes: Screenings and Verifications

Division 4, Temporary, Time-Limited, and Provisional Verifications

June 2021

(a) You may only issue a provisional verification if the foster home will continue to care for foster children that the previous agency placed in the home.

(b) You may only issue a provisional verification after:

(1) You request and receive the background information from the foster home's former child-placing agency, which the agency is required to send according to §749.2475 of this subchapter (relating to To whom must I release information regarding a family on which I previously conducted a foster home screening, pre-adoptive home screening, or post placement adoptive report?) [Medium];

(2) Based on the background information you receive from the former child-placing agency, and any current screening and evaluation that your agency has conducted up to this point, you determine that the home does not present a potential risk to the health or safety of children [Medium-High];

(3) If the foster home is moving to a new residence, you:

(A) Inspect the new location [Medium]; and

(B) Determine that the home meets the minimum standards, including the standards in Subchapter O of this chapter (relating to Foster Homes: Health and Safety Requirements, Environment, Space and Equipment) [Medium-High]; and

(4) The child placement management staff reviews and approves the provisional verification by signing and dating it [Medium].

(c) A foster home with a provisional verification must meet the same rules as a foster home with a non-expiring verification, except for any screening requirements that have not been completed [Medium].

(d) A provisional verification must include any condition (number of children, age, gender, services provided) or any other restriction that was in the previous child-placing agency's verification [Medium].

§749.2537. For what length of time can I issue a provisional verification?

Subchapter M, Foster Homes: Screenings and Verifications

Division 4, Temporary, Time-Limited, and Provisional Verifications

June 2021

(a) A provisional verification is valid [Low]:

(1) For six months from the date it is issued; or

(2) Until the foster home is issued a non-expiring verification or closed.

(b) You may not renew the provisional verification [Medium-Low].

§749.2539. Can foster children remain in the foster home while a provisional verification is in effect?

Subchapter M, Foster Homes: Screenings and Verifications

Division 4, Temporary, Time-Limited, and Provisional Verifications

June 2021

Children who are in the care of a foster family that is transferring from one child-placing agency to another may continue to live in the foster home while the provisional verification is in effect. However, you may not make new placements of children into a home that is provisionally verified [Medium].

Division 5, Capacity and Child/Caregiver Ratio

§749.2550. What does "children with primary medical needs requiring total care" mean when used in this Division?

Subchapter M, Foster Homes: Screenings and Verifications

Division 5, Capacity and Child/Caregiver Ratio

December 2014

"Children with primary medical needs requiring total care" means children receiving treatment services for primary medical needs who are completely or primarily dependent upon the foster parents for their activities of daily living, such as eating/feeding, bathing, grooming, dressing and ambulation.

§749.2551. What is the maximum number of children a foster family home may care for?

Subchapter M, Foster Homes: Screenings and Verifications

Division 5, Capacity and Child/Caregiver Ratio

November 2022

(a) A one-parent foster family home with one additional full-time, live-in caregiver or a two- parent foster family home may care for up to six children, except as noted in the chart below [Medium-High]:

If the home cares for:	Then the maximum number of children the home may care for is:
Infants	Six, with a maximum of two infants and two more children less than six years old, unless the placement is necessary to maintain a sibling group of children. [Medium-High]
One child or more receiving treatment services for primary medical needs	• Six, with a maximum of three children with primary medical needs requiring total care, unless the placement is necessary to maintain a sibling group of children [Medium-High]; or • Four, if all placements are children with primary medical needs requiring total care, unless the placement is necessary to maintain a sibling group of children. [Medium-High] • Foster family homes verified to provide treatment services to children with primary medical needs before January 1, 2015, may continue to care for up to six children with no limitation. [Medium-High]

(b) A one-parent foster family home with one additional full-time, live-in caregiver or a two- parent foster family home may care for seven or eight children if all of the following criteria are met [Medium-High]:

(1) Each foster or adoptive child that you place in the home that expands the home's capacity to more than six children is placed in the home for the purpose of allowing:

(A) Siblings to remain together;

(B) A child with an established meaningful relationship with the foster family (including a relative or close family friend) to remain with the family;

(C) A parenting youth in care to remain with the child of the parenting youth; or

(D) A family with special training or skills to provide care to a child who has a severe disability;

(2) The foster family home cares for a maximum of two infants and two more children less than six years old, unless the placement is necessary to maintain a sibling group of children;

(3) The foster family home cares for a maximum of three children with primary medical needs requiring total care, unless the placement is necessary to maintain a sibling group of children;

(4) You complete a Foster Family Home Capacity Exception Form with the appropriate signatures and place the form in the foster family home record; and

(5) After you complete the exception form, you lower the home's capacity each time a child listed on the form leaves the home until the home's capacity does not exceed six. This applies to both a foster child that leaves and a child who was placed in the home to be adopted leaves without the adoption being consummated.

(c) A one-parent foster family home or two-parent foster family home with one foster parent absent for extended periods of time (such as military service or out-of-town job assignments) may care for up to six children, except as noted in the chart below [Medium-High]:

If the home cares for:	Then the maximum number of children the home may care for is:
Any child less than five years old	Five [Medium-High]
Infants	Five, with a maximum of two infants and two more children less than six years old, unless the placement is necessary to maintain a sibling group of children. [Medium-High]
Three or more children receiving treatment services	Four [Medium-High]
One child or more receiving treatment services for primary medical needs	• Four, with a maximum of one child with primary medical needs requiring total care, unless the placement is necessary to maintain a sibling group of children [Medium-High]; or • Two, if all placements are children with primary medical needs requiring total care, unless the placement is necessary to maintain a sibling group of children. [Medium-High] • Foster family homes verified to provide treatment services to children with primary medical needs before January 1, 2015, may continue to care for up to four children with no limitation. [Medium-High]

(d) Notwithstanding subsections (a), (b), and (c) of this section, a child-placing agency may request an exception for a foster family home to care for seven or eight children by using the process for requesting a variance that is in 26 TAC Chapter 745, Subchapter J of this title (relating to Waivers and Variances for Minimum Standards) and meeting the requirements of that subchapter. When processing a request for a variance related to a foster home's capacity, we will consider any limitations in state or federal law.

(e) The maximum number of children that a foster family home may care for includes any biological and adopted children of the caregivers who live in the foster home, any children receiving foster or respite child-care, and any children for whom the family provides day care. All adults in care must also be counted in the capacity of the home as required by §749.2651(b) of this title (relating to May a foster home accept adults into the home for care?). [Medium-High]

Technical Assistance
• In addition to the requirements in 749.2551(b), foster homes with a capacity of more than six children must continue to meet the other minimum standards that relate to foster homes, or a variance must be requested and approved, as appropriate, including: o The capacity must be consistent with the requirements for determining capacity at §749.2555 (How do I determine capacity?); o The foster home screening must be updated as required by §749.2453 (When must I update the foster home screening?); o The foster home's verification certificate must be amended with the increased capacity as required by §749.2481 (What type of certificate must a foster home have in order to prove verification?); and o The foster home's capacity must be updated on Licensing's public website as required by §749.2489 (What information must I submit to Licensing about a foster home's verification status?). • Here is an example to clarify paragraph 749.2551(b)(5): A foster family home is currently licensed for a total capacity of six children. Currently, the home has no biological children and four foster children. A CPA then determines it is appropriate to increase the foster family home's capacity to eight to take in a sibling group of four. If one of the current foster children leaves the home's care, then the CPA must reduce the capacity of the foster family home down to seven children. If another one of the current foster children leaves the home's care, then the CPA must reduce the capacity of the foster family home down to six children.

§749.2555. How do I determine capacity?

Subchapter M, Foster Homes: Screenings and Verifications

Division 5, Capacity and Child/Caregiver Ratio

January 2007

Capacity of the home is based on the:

(1) Number of caregivers, and the age of the children in the home and in placement [Medium-High];

(2) Services being provided and the needs of the children in care [Medium-High];

(3) Amount of space available for children [Medium]; and

(4) Bathroom accommodations in the home. [Medium-Low]

§749.2557. May a foster home exceed its verified capacity?

Subchapter M, Foster Homes: Screenings and Verifications

Division 5, Capacity and Child/Caregiver Ratio

September 2010

(a) The number of children in a foster home, including the biological and adopted children of the caregivers who live in the foster home, any children receiving foster or respite child-care, and children for whom the family provides day care, must not exceed the total capacity stated on the home's verification. [Medium-High]

(b) Children visiting the home or in the home for infrequent babysitting are not counted in the capacity of the home. However, the caregivers in the home must ensure that the presence of additional children in the home does not prevent adequate supervision of children in foster and respite child-care. [Medium-High]

Division 6, Supervision

§749.2591. How am I responsible for ensuring adequate supervision of children in care?

Subchapter M, Foster Homes: Screenings and Verifications

Division 6, Supervision

January 2007

(a) Your child placement management staff must ensure that supervision of children in care adequately accounts for the following:

(1) Specific needs of the children in care in each home [Medium-High];

(2) Non-routine events taking place in the lives of individual children, the foster parents, or the group of children in care [Medium-High]; and

(3) The children's history, including background of abuse or neglect by caretakers, sexual or physical abuse against others, fire-setting, maiming or killing animals, suicide attempts, and run-away behaviors. [Medium-High]

(b) Your child placement management staff must also approve a written plan for the increased supervision of a child who presents an immediate harm to himself or others. [Medium-High]

§749.2593. What responsibilities does a caregiver have when supervising a child?

Subchapter M, Foster Homes: Screenings and Verifications

Division 6, Supervision

January 2017

(a) The caregiver is responsible for:

(1) Knowing which children they are responsible for [High];

(2) Being aware of and accountable for each child's on-going activity [High];

(3) Providing the level of supervision necessary to ensure each child's safety and well being, including auditory and/or visual awareness of each child's on-going activity as appropriate [High];

(4) Being able to intervene when necessary to ensure each child's safety [High]; and

(5) Not performing tasks that clearly impede the caregiver's ability to supervise and interact with the children while being responsible for the supervision of the children and meet any service-planning requirement regarding supervision of any child. [High]

(b) In deciding how closely to supervise a child, the caregiver must take into account:

(1) The child's age [Medium-High];

(2) The child's individual differences and abilities [Medium-High];

(3) The indoor and outdoor layout of the home [Medium-High];

(4) Surrounding circumstances, hazards, and risks [Medium-High]; and

(5) The child's physical, mental, emotional, and social needs. [Medium-High]

(c) Caregivers counted in the child/caregiver ratio must:

(1) Be aware of the children's habits, interests, and any special needs, including any special supervision needs [Medium-High];

(2) Provide a safe environment [High];

(3) Cultivate developmentally appropriate independence in children through planned but flexible program activities [Medium-High];

(4) Positively reinforce children's efforts and accomplishments [Medium-High];

(5) Ensure continuity of care for children by sharing with incoming caregivers information about each child's activities during the previous shift and any verbal or written information or instructions given by the parent or other professionals [Medium-High]; and

(6) Implement and follow the children's service plans. [Medium-High]

(d) When a child participates in an unsupervised childhood activity, the caregiver must [Medium-High]:

(1) Know where the child is scheduled to be [Medium-High];

(2) Give the child a specific time to return to the foster home or the caregiver's location [Medium-High];

(3) Provide, arrange, or confirm an appropriate method of transportation to and from the activity [Medium-High];

(4) Give the child a way to contact the caregiver in an emergency [Medium-High]; and

(5) Be available to respond if the child contacts the caregiver and needs immediate assistance. [Medium-High]

(e) Caregivers that supervise a child receiving treatment services must maintain progress notes for the child, at a frequency determined by the service planning team. Caregivers must sign and date each progress note at the time the progress note is completed. Progress notes must be available for Licensing staff to review. [Medium-High]

Technical Assistance
Regarding subsection (d), children may also be away from the foster home and caregivers in order to participate in an activity supervised by adults not affiliated with the agency or foster home, such as an event sponsored by a religious youth group, Boy Scout or similar event, school-sponsored social event (like a dance), etc. The same expectations outlined in subsection (d) of this rule apply to these types of activities.

§749.2595. May I use a video camera to supervise a child in the child's bedroom?

Subchapter M, Foster Homes: Screenings and Verifications

Division 6, Supervision

January 2007

(a) Video cameras may be used to supervise infants and toddlers.

(b) Video cameras may not be used to supervise children, other than infants and toddlers, unless the:

(1) Parent, or other person legally authorized to consent, consents to the use of the video camera [Medium]; and

(2) Child [Medium]:

(A) Is younger than five years old;

(B) Has primary medical needs; or

(C) Has a service plan that permits the use for purposes of reducing risks of sexually offensive behavior, physical aggression, or other behaviors identified as requiring heightened supervision, such as night terrors, sleepwalks, or resides in a bedroom with such a child. You must document the justification for the video camera in the child's service plan, and the child must have other accessible and reasonable locations where he may change his clothing in private.

(c) Video cameras may not be used to tape the child, and images may not be accessible except to the foster home's caregivers. [Medium]

§749.2597. Where must the caregivers reside in order to supervise children who are in a transitional living program?

Subchapter M, Foster Homes: Screenings and Verifications

Division 6, Supervision

January 2007

Caregivers counted in the child/caregiver ratio and responsible for supervising children in a transitional living program must:

(1) Reside within close physical proximity of the child's living quarters [Medium-High];

(2) Be physically available to the children at all times [Medium-High];

(3) Be capable of responding quickly in an emergency [Medium-High]; and

(4) Be capable of monitoring the comings and goings of the children in the program. [Medium-High]

§749.2599. Can a child serve as a babysitter?

Subchapter M, Foster Homes: Screenings and Verifications

Division 6, Supervision

January 2017

A child who is 16 years old or older, including a foster child, may serve as a babysitter for children under the age of 13 as long as [Medium-High]:

(1) The child placement management staff approves the child to babysit and establishes limits with duration and frequency [Medium-High];

(2) The child acts as a babysitter for no more than eight hours and never over night [Medium-High];

(3) The child is certified in first aid and cardiopulmonary resuscitation (CPR) [High]; and

(4) Neither the child babysitting nor any of the foster children in the babysitter's care is receiving treatment services. [Medium-High]

Division 7, Normalcy

§749.2601. What is "normalcy"?

Subchapter M, Foster Homes: Screenings and Verifications

Division 7, Normalcy

January 2017

Normalcy is the ability of a child in care to live as normal a life as possible, including:

(1) Engaging in childhood activities that are suitable for children of the same age, level of maturity, and developmental level as determined by a reasonable and prudent parent standard; and

(2) Having normal interaction and experiences within a foster family and participating in foster family activities.

§749.2603. Are children in care required to participate in childhood activities?

Subchapter M, Foster Homes: Screenings and Verifications

Division 7, Normalcy

January 2017

(a) Children in care must participate in childhood activities, including unsupervised childhood activities, as much as possible. [Medium-High]

(b) Service planning meetings, and any decision making regarding the child's need for supervision, must include discussions on how normalcy for the child can be achieved, and discussions, if applicable, regarding a child's refusal to participate in childhood activities. The child's service plan must specify whether there are any restrictions on the child's participation in these activities and whether the activities may extend into sleeping hours. [Medium-High]

§749.2605. What is the "reasonable and prudent parent standard"?

Subchapter M, Foster Homes: Screenings and Verifications

Division 7, Normalcy

January 2017

(a) The reasonable and prudent parent standard is the standard of care that a parent of reasonable judgment, skill, and caution would use to maintain the health, safety, and best interest of the child and encourage the emotional and social growth and development of the child.

(b) When using the reasonable and prudent parent standard, a foster parent must take into consideration the following when deciding whether a child may participate in normal childhood activities:

(1) The child's age and level of maturity [Medium];

(2) The child's cognitive, social, emotional, and physical development level [Medium];

(3) The child's behavioral history and ability to safely participate in a proposed activity [Medium];

(4) The child's overall abilities [Medium];

(5) Whether the activity is a normal childhood activity for a child of that age and level of maturity [Medium];

(6) The child's desires [Medium];

(7) The surrounding circumstances, hazards, and risks of the activity [Medium];

(8) Outside supervision of the activity, if available and appropriate [Medium];

(9) The supervision instructions in the child's service plan [Medium]; and

(10) The importance of providing the child with the most normal family-like living experience possible. [Medium]

(c) There is a presumption that a reasonable and prudent parent would include the child in normal interactions and experiences within the foster family and allow the child to participate in foster family activities, to the same extent as a similarly situated child born to the family.

§749.2607. Who makes the decision regarding a foster child's participation in childhood activities?

Subchapter M, Foster Homes: Screenings and Verifications

Division 7, Normalcy

January 2017

(a) Except as otherwise provided in subsection (c) of this section, a foster parent makes decisions regarding a child's participation in childhood activities. [Medium-High]

(b) When making decisions regarding a foster child's participation in childhood activities, the foster parent must follow the reasonable and prudent parent standard. [Medium-High]

(c) The service plan may not require the prior approval of the parent before the foster parent may consent to a foster child's participation in childhood activities. However, if the parent provides notice in advance that the child is prohibited from participating in a specific activity, the foster parent must follow the parent's decision. [Medium-High]

Division 8, Respite Child-Care Services

§749.2621. What are respite child-care services?

Subchapter M, Foster Homes: Screenings and Verifications

Division 8, Respite Child-Care Services

January 2007

(a) Respite child-care services are a planned alternative 24-hour care that has the purpose of providing relief to the child's primary caregiver.

(b) For the purposes of this chapter, respite child-care placement is a placement that lasts more than 72 hours. The placement of a child in a home for less than 72 hours is not respite child-care.

§749.2623. What must occur before I place a child for respite child-care services?

Subchapter M, Foster Homes: Screenings and Verifications

Division 8, Respite Child-Care Services

January 2017

Before placing the child in respite child-care services, you must:

(1) Notify the child's parent [Medium-Low]; and

(2) Inform the child of the plan for respite child-care services, including the intended time of stay. [Medium-Low]

§749.2625. What information regarding the child must I share with the babysitter, overnight care provider, and respite care provider?

Subchapter M, Foster Homes: Screenings and Verifications

Division 8, Respite Child-Care Services

December 2014

Before a babysitter, overnight care provider or respite care provider may provide care to a child, you must share the following information with the provider to ensure continuity of care [Medium-High]:

(1) Specific needs of a child, including [Medium-High]:

(A) All psychological, psychiatric or medical treatment currently being provided [Medium-High];

(B) Medication regimen and medication instructions [Medium-High];

(C) Authorization for medical treatment [Medium-High]

(D) Safety plans [Medium-High];

(E) Sleeping information [Medium-High];

(F) Discipline instructions [Medium-High];

(G) Any expectations that the foster parent or agency may have of the provider [Medium-High]; and

(H) Any other needs of a child that should be addressed by the provider [Medium-High];

(2) Non-routine events taking place in the life of the child, including any scheduled appointments such as family and sibling visits [Medium-High];

(3) Emergency contact information, including the [Medium]:

(A) Child's physician(s) [Medium-High];

(B) Child's parent [Medium]; and

(C) Agency's telephone number [Medium]; and

(4) The child's history that may affect the provider's ability to provide care for the child, including [High]:

(A) Background of abuse and/or neglect [Medium-High];

(B) Physical aggression or sexual behavior problems [Medium-High];

(C) Fire setting [Medium-High];

(D) Maiming or killing animals [Medium-High];

(E) Suicidal ideations and attempts [Medium-High]; and

(F) Run-away behaviors. [Medium-High]

§749.2627. What must occur before one of my foster homes accepts a child for respite child-care service?

Subchapter M, Foster Homes: Screenings and Verifications

Division 8, Respite Child-Care Services

January 2007

(a) You must approve each occurrence of respite child-care services in your homes. Respite child-care services must not be provided if it could be detrimental to the child. [Medium-High]

(b) Your child placement management staff must determine that the respite placement will not cause a conflict in care for any child that you have already placed in the foster home. The record of the foster home providing respite child-care services must include documentation of this determination. [Medium-High]

§749.2629. In addition to the requirements of this division, what requirements of this chapter apply to respite child-care services that a foster home provides?

Subchapter M, Foster Homes: Screenings and Verifications

Division 8, Respite Child-Care Services

September 2010

You and the foster home providing respite child-care must meet all requirements of the applicable rules of this chapter for all children in care, including children admitted for respite child-care services. This includes compliance with capacity and child/caregiver ratios and supervision rules. Children receiving respite care in a foster home are counted in the capacity and child/caregiver ratio for the home. [Medium-High]

Technical Assistance
Children in respite child-care must meet the verification restrictions of a foster home that provides the respite child-care. The child-placing agency and the foster home providing respite child-care must meet all requirements of the applicable minimum standards for all children in care, including children admitted for respite child-care services. This includes compliance with capacity, child/caregiver ratio, and supervision requirements. For example, if a foster home is verified for six children and has four children in the home, it can only accept two children for respite child-care.

§749.2631. How long may a child be in respite child-care services?

Subchapter M, Foster Homes: Screenings and Verifications

Division 8, Respite Child-Care Services

January 2007

(a) With the exception of subsection (b) of this section, a child may be in respite child-care services for 14 consecutive days or 40 days each year. [Medium]

(b) A respite child-care placement that is made because a child's foster home is under investigation for abuse or neglect does not count toward nor is it limited by the time frames noted in subsection (a) of this section. However, these placements are limited to a maximum of 60 days. [Medium]

(c) If a child needs respite child-care services for more than 14 consecutive days or more than 60 days for an abuse or neglect investigation, this is considered a new placement and will not be respite child-care. [Medium]

(d) When a child finishes a respite child-care placement, he may not return to respite child-care services for at least 10 days. [Medium-Low]

(e) Respite child-care must not be used if it could be detrimental to the child. [Medium-High]

Technical Assistance
The time limit of 40 days per year of respite care for each child is intended to serve the best interests of the child by minimizing disruptions in care. To that end, and in an effort to comply with these minimum standard rules, you are expected to seek out information about a child's time spent in respite child-care at any previous placement(s) earlier in the year. You are responsible for limiting the child's placement(s) in respite child-care accordingly for the remainder of the year. In addition, in an effort to comply with §749.2633, a child-placing agency which verifies a foster home previously verified by another agency is expected to obtain information about how much respite child-care the foster home has already provided that year and limit respite child-care in that home accordingly for the remainder of the year.

§749.2633. How frequently may a foster home provide respite child-care services?

Subchapter M, Foster Homes: Screenings and Verifications

Division 8, Respite Child-Care Services

January 2007

(a) The home may not provide respite child-care services for more than [Medium-Low]:

(1) 14 consecutive days; or

(2) 60 days annually.

(b) A respite child-care placement that is made because a child's foster home is under investigation for abuse or neglect does not count toward nor is it limited by the time frames noted in subsection (a) of this section. However, these placements are limited to a maximum of 60 days. [Medium]

(c) This rule does not apply to foster homes that exclusively provide respite child-care services.

§749.2635. May I place a child for babysitting, overnight care, or respite care in a home that Licensing does not regulate?

Subchapter M, Foster Homes: Screenings and Verifications

Division 8, Respite Child-Care Services

January 2017

Yes, you may place a child in a home that Licensing does not regulate for babysitting, overnight care, or respite care, if the provider:

(1) Is not subject to regulation by Licensing [Medium]; and

(2) Meets the policy requirements your agency developed according to §749.127 of this title (relating to What policies must I develop for babysitters, overnight care providers, and respite care providers?). [Medium]

Division 9, Agency – Foster Family Relationships

§749.2651. May a foster home accept adults into the home for care?

Subchapter M, Foster Homes: Screenings and Verifications

Division 9, Agency-Foster Family Relationships

January 2007

(a) Foster homes may accept adults into the home for care if the adult [Medium]:

(1) Is related to the foster family;

(2) Is a client in the Department of Aging and Disability Services, Community Based Services Program; or

(3) Meets one of the requirements of §749.1105 of this title (relating to May I admit a young adult into your care?).

(b) Adults in care must be counted in the capacity of the home. [Medium-High]

§749.2653. What are the requirements for an unrelated adult to reside in a foster home?

Subchapter M, Foster Homes: Screenings and Verifications

Division 9, Agency-Foster Family Relationships

January 2007

(a) Before a foster home may add a new member to the household:

(1) The home must notify you of the potential new member of the household [Medium-High];

(2) The home must comply with requirements specified in Subchapter F of Chapter 745 of this title (relating to Background Checks) and §749.1417 of this title (relating to Who must have a tuberculosis (TB) examination?) [High]; and

(3) You must evaluate the effect that the adult will have on the foster children in the home. Your evaluation must include the following considerations [Medium-High]:

(A) The needs of the foster children in care [Medium-High];

(B) The impact the adult will have in the foster family and for the foster children [Medium-High]; and

(C) Whether the change in household will conflict with the children's best interest. [Medium-High]

(b) You must document the following in the foster home record:

(1) The results of the background check and the tuberculosis screening [Medium-High];

(2) Your evaluation [Medium-Low]; and

(3) The approval of the child placement management staff. [Medium-Low]

§749.2655. When must a foster home notify you of changes that affect the foster home?

Subchapter M, Foster Homes: Screenings and Verifications

Division 9, Agency-Foster Family Relationships

January 2017

A foster home must notify you of any of the following changes as follows:

Weight	Type of change:	Time for notification:
[High]	(1) A change in the location of the foster home.	Before moving.
[Medium-High]	(2) Any major life changes as defined at §749.2805 of this title (relating to What is a "major life change in the foster family"?).	Before the change occurs, if possible; otherwise, immediately upon discovery.
[Medium-High]	(3) A change affecting a condition of the verification.	Before the change occurs, if possible; otherwise, immediately upon discovery.

Subchapter N, Foster Homes: Management and Evaluation

§749.2801. When must I evaluate a foster home for compliance with Licensing rules?

Subchapter N, Foster Homes: Management and Evaluation

December 2014

(a) You must evaluate a foster home for compliance with the relevant Licensing rules affecting the need for the evaluation, whenever:

(1) You receive an allegation of deficiency [Medium-High];

(2) There is a major life change in the foster family [Medium-High];

(3) A change occurs that affects the conditions of the verification [Medium-High]; or

(4) You receive a family violence report from DFPS. [Medium-High]

(b) You must evaluate a foster home for compliance with all rules that apply to that home [Medium-High]:

(1) Every two years;

(2) When you plan to extend a foster home's time-limited verification; and

(3) When you plan to change a foster home's verification from time-limited to non-expiring.

Technical Assistance
Regarding subsection (b)(1), you are not required to issue a new verification certificate every two years. You are only required to document in the foster home's record that you have evaluated the foster home for compliance with all applicable minimum standards within the two-year time frame. Your schedule for this evaluation may vary. Some child-placing agencies choose to conduct a large, comprehensive evaluation less often. Other child-placing agencies choose to evaluate a small portion of the minimum standards during each foster home visit.

§749.2803. What changes affect a foster home's verification?

Subchapter N, Foster Homes: Management and Evaluation

January 2017

(a) Changes that affect a foster home's verification include a:

(1) Marriage, divorce, separation, death, birth, or any other change in household composition;

(2) Change in the foster home's address and/or location;

(3) Change in the foster home's capacity, as determined by the capacity requirements in §749.2557 of this title (relating to May a foster agency home exceed its verified capacity?);

(4) Change in the ages and gender(s) of children for which the home is authorized to provide care; or

(5) Change in the types of services the foster home will provide.

(b) You must issue a new or temporary verification certificate to a foster home to [Medium-Low]:

(1) Change the home's verification, including the home's address or location;

(2) Extend the expiration date of the home's time-limited verification; or

(3) Change a foster home's verification from time-limited to non-expiring.

(c) A verification certificate becomes invalid at the point of:

(1) The occurrence of any changes that affect a foster home's verification, including the home's address and/or location; or

(2) The foster home's time-limited verification expires.

§749.2805. What is a "major life change in the foster family"?

Subchapter N, Foster Homes: Management and Evaluation

January 2017

A major life change in the foster family includes:

(1) Marriage, divorce, separation, death, birth, or any other change in household composition;

(2) A serious health problem or significant change in a work schedule that affects the ability of the foster parent to care for children; or

(3) Extended absences by one parent, such as military service or out-of-town job assignments.

§749.2807. How do I evaluate a foster home's compliance with the relevant Licensing rules affecting the need for the evaluation?

Subchapter N, Foster Homes: Management and Evaluation

September 2010

You are responsible for the home's ongoing compliance with our rules. You must evaluate the home as follows [Medium-High]:

(1) When there is an allegation of a deficiency, you must evaluate the rule and any rules related to the deficiency [Medium-High];

(2) When a change in the conditions of the verification or a major life change occurs, you must evaluate the rules related to the conditions or change [Medium];

(3) When an unplanned change in housing or employment occurs, you must evaluate the rules related to the change [Medium];

(4) You must document the rules that were evaluated and the determination of the evaluation [Medium];

(5) During any contact with the foster family, including routine supervisory contacts and investigations, you must cite and address any deficiencies noted [Medium];

(6) Your documentation of deficiencies must include plans for achieving compliance [Medium]; and

(7) You must also document a plan for follow-up to ensure compliance was achieved. [Medium]

§749.2809. What must a plan for achieving compliance include?

Subchapter N, Foster Homes: Management and Evaluation

January 2007

The plan for achieving compliance must include:

(1) Specific actions or changes needed for the foster home to achieve compliance [Medium];

(2) Time frames for corrections and consequences for failure to achieve compliance [Medium];

(3) A determination of whether children can remain in the foster home before the home achieves compliance [Medium]; and

(4) A determination whether you will make new placements in the home before the home achieves compliance. [Medium]

§749.2811. How do I follow-up to ensure compliance?

Subchapter N, Foster Homes: Management and Evaluation

January 2007

You must:

(1) Re-inspect the foster home or receive documentation from the home showing that all deficiencies have been corrected [Medium]; and

(2) Document that the foster home has corrected all deficiencies in the foster home's record. [Medium-Low]

§749.2813. How do I evaluate Licensing rules for each home every two years?

Subchapter N, Foster Homes: Management and Evaluation

January 2007

You may either:

(1) Perform a rule-by-rule evaluation of the home once every two years; or

(2) Evaluate different parts of the rules at different times during the two-year period.

§749.2814. How do I evaluate a foster home prior to extending its time-limited verification or changing its verification from time-limited to non-expiring?

Subchapter N, Foster Homes: Management and Evaluation

December 2010

You must evaluate the foster home for compliance with each applicable rule of this chapter prior to extending the foster home's time-limited verification or changing the foster home's verification from time-limited to non-expiring. [Medium-High]

§749.2815. How often must I have supervisory visits with the foster home and what must be evaluated during a supervisory visit?

Subchapter N, Foster Homes: Management and Evaluation

January 2017

(a) Child placement staff must conduct supervisory visits:

(1) In the foster home at least quarterly [Medium-High];

(2) With both foster parents, if applicable, at least once every six months [Medium-High]; and

(3) With all household members at least once every year. [Medium-High]

(b) At least two supervisory visits per year must be unannounced. [Medium-High]

(c) At least once every quarter your supervisory visit must evaluate and document the following [Medium]:

(1) Any change to household members, frequent visitors, or persons who will provide support as a caregiver during an unexpected event or crisis situation [Medium];

(2) Any major life change in the foster family as described in §749.2805 of this title (relating to What is a "major life change in the foster family"?) [Medium];

(3) Any change to the foster home disaster and emergency plans as described in §749.2907 of this title (relating to What disaster and emergency plans much each foster home have?) [Medium]; and

(4) Any challenging behaviors of the current children in the home, the level of stress the foster family is currently experiencing (including any significant change in finances), and any methods for responding to each child's challenging behavior and/or alleviating any significant stress the foster family is experiencing. [Medium]

(d) You must document each visit in the home's record. The documentation must include the names of all household members present during the visit, specific issues identified and any rules evaluated, results of the evaluation, deficiencies found, plans for achieving compliance, plans for follow-up to ensure compliance was achieved, and any changes to the information in the foster home screening since the last supervisory visit, including the reasons for any change in the home's verification. [Medium]

(e) For each supervisory visit, documentation of the visit must be signed by each foster parent present for the visit and the child placement staff conducting the visit. [Medium]

§749.2817. Must I monitor and have supervisory visits with a foster home where no children are placed?

Subchapter N, Foster Homes: Management and Evaluation

January 2007

(a) You must maintain all monitoring and supervisory requirements if the home is available for placements. [Medium]

(b) If you place the home on inactive status, you do not have to monitor the home or have supervisory visits.

§749.2819. When may I place a foster home on inactive status?

Subchapter N, Foster Homes: Management and Evaluation

December 2010

(a) You may place a foster home on inactive status if:

(1) There are no foster children in the home;

(2) You and the foster parents agree that the home will be on inactive status;

(3) You document in the home's record that the home is on inactive status and will not accept a child for placement; and

(4) For a foster home with a time-limited verification, the home's verification has not expired.

(b) You may not place a home that you should close on inactive status. A home that you should close includes a home [Medium]:

(1) Whose repeated noncompliance with rules endangers the health or safety of children [High];

(2) That repeatedly fails to comply with agency policies or corrective action plans [High];

(3) That refuses to comply with the rules of this chapter or agency policies [High]; or

(4) That refuses to allow you or our staff to inspect the home. [High]

(c) When you place a home on inactive status or remove a home from inactive status, you must inform us by submitting an agency home report form. [Medium-Low]

§749.2821. How do the foster parents meet their training requirements while their home is on inactive status?

Subchapter N, Foster Homes: Management and Evaluation

January 2007

(a) Foster parents may prorate their annual training requirement for the period of time that the home was on inactive status.

(b) If the home remains on inactive status for more than a year, the foster parents must complete at least eight hours of pre-service retraining before you may place children in the home. [Medium]

§749.2823. Are background checks required on homes that are on inactive status?

Subchapter N, Foster Homes: Management and Evaluation

January 2007

Background checks are not required for homes that are on inactive status. If the home is taken off of inactive status and it has been more than two years since the last background check for any person(s) at the home for whom a check is required, the background check(s) must be requested before a child or children can be placed in the home. [High]

§749.2825. How do I take a foster home off inactive status?

Subchapter N, Foster Homes: Management and Evaluation

January 2007

When the home is ready to become active and accept children, you must:

(1) Make a supervisory contact in the home prior to placing a child in the home [Medium-High];

(2) Document that the home is complying with all applicable rules of this chapter [Medium-High];

(3) Ensure that the home is in compliance with all background check requirements. [High]

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 1, Health and Safety

§749.2901. What health and safety regulations must each foster home meet in addition to Licensing rules?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 1, Health and Safety

January 2007

All agency homes must comply with all applicable fire, health, and safety laws, ordinances, and regulations. [Medium-High]

§749.2902. What health safety measures are required at a foster home?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 1, Health and Safety

January 2017

(a) Foster homes must have either:

(1) A health inspection conducted from the local health authority [High]; or

(2) A health and safety evaluation conducted by your child placement staff using our Environmental Health Checklist form for foster homes. [High]

(b) You must document each health inspection or health and safety evaluation, including the name and telephone number of the person who conducted the inspection or evaluation. [High]

(c) The foster home must correct any deficiencies documented during any inspection or evaluation and must comply with any conditions or restrictions specified by the inspector or evaluator. [High]

§749.2903. What fire safety measures are required at a foster family home not serving children receiving treatment services for primary medical needs?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 1, Health and Safety

April 2022

(a) Foster family homes not serving children receiving treatment services for primary medical needs must have either [High]:

(1) A fire inspection conducted by a state or local fire authority; or

(2) A fire safety evaluation conducted by your child placement staff using the State Fire Marshal's fire prevention checklist for foster homes.

(b) Each fire inspection or fire safety evaluation must be documented, including the name and telephone number of the person who conducted the inspection or evaluation. [Medium]

(c) The foster home must correct any deficiencies documented during any inspection or evaluation and must comply with any conditions or restrictions specified by the inspector or evaluator. [High]

(d) If a foster family home changes verification to become either a foster family home serving children receiving treatment services for primary medical needs, then the foster home must meet the fire safety measures for §749.2904 of this title (relating to What fire safety measures are required at a foster family home serving children receiving treatment services for primary medical needs?) before changing the verification.

Technical Assistance
Child placement staff conducting a fire safety evaluation must document the foster home's deficiencies according to the State Fire Marshal's fire prevention checklist for foster homes. After documenting all deficiencies, the child placement staff must review the deficiencies with the foster home, give the foster parent(s) a deadline for correcting each deficiency, and set any conditions or restrictions necessary to ensure child safety until deficiencies have been corrected. These expectations are consistent with §749.2807 through §749.2811.

§749.2904. What fire safety measures are required at a foster family home serving children receiving treatment services for primary medical needs?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 1, Health and Safety

April 2022

(a) Foster family homes serving children receiving treatment services for primary medical needs must have a fire inspection conducted by a state or local fire authority. You must document efforts to obtain a fire inspection. If, after exploring and documenting efforts to obtain a fire inspection for a home, you cannot obtain a fire inspection, then a fire safety evaluation may be conducted by your child-placement staff using the State Fire Marshal's fire prevention checklist for foster homes. Documentation of efforts to obtain a fire inspection must include each date, the name of the person contacted, and the person's response to the request to complete an inspection. [High]

(b) Each inspection or use of the State Fire Marshal's checklist must be documented, including the name and telephone number of the person who conducted the inspection or evaluation. [Medium]

(c) Deficiencies documented during any inspection or use of the State Fire Marshal's checklist must be corrected, and the foster home must comply with any conditions or restrictions specified by the inspector or child-placement staff. [High]

(d) Once you document that a fire inspection is not available in a particular area, you may use that documentation for any foster home verified by you in that area. A copy of the documentation must be on file in each foster home record to which the documentation applies. [Medium]

(e) Documentation that a fire inspection is not available in a particular area is valid for one year. [Medium]

§749.2905. How often must fire and health inspections be conducted at a foster home?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 1, Health and Safety

April 2022

(a) Unless otherwise stated in the report, a fire or health inspection report obtained from a local health authority or state or local fire authority is current for two years for a foster family home. [Medium-High]

(b) A fire safety or health and safety evaluation conducted by your child placement staff using the State Fire Marshal's checklist for foster homes is current for one year. [Medium-High]

§749.2907. What disaster and emergency plans must each foster home have?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 1, Health and Safety

June 2014

(a) Each foster home must have written plans and procedures for handling potential disasters and emergencies, such as fire, severe weather emergencies, and transportation emergencies. Each plan must include [Medium-High]:

(1) Procedures for relocating children to a designated safe area or alternate shelter including specific procedures for evacuating children who are under 24 months of age, who have limited mobility, or who otherwise may need assistance in an emergency, such as children who have mental, visual, or hearing impairment, or a medical condition that requires assistance [Medium-High]; and

(2) How you will ensure medications and equipment will be made available to children with special needs or medical conditions. [Medium-High]

(b) Foster parents and caregivers must know the procedures for meeting disasters and emergencies, including evacuation procedures, supervision of the children, and contacting emergency help. [Medium-High]

§749.2908. How must a foster home practice disaster and emergency plans?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 1, Health and Safety

December 2014

(a) A foster home must practice disaster and emergency plans each year by [Medium-High]:

(1) Discussing the plans and procedures for handling a fire and weather emergency with the children in care [Medium-High];

(2) Conducting a fire drill, so children are able to safely exit the foster home within three minutes [Medium-High]; and

(3) Conducting a severe weather drill. [Medium-High]

(b) The foster home must document the discussions and the drills, including the date and time of each. [Medium]

(c) For foster homes treating children with primary medical needs, a substitute (such as a large body pillow) should be used for each child with primary medical needs if the drill would endanger or overstimulate the child. [Medium]

§749.2909. How many smoke detectors must a foster home have?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 1, Health and Safety

January 2017

(a) Each home must have a working smoke detector in the following areas:

(1) In hallways or open areas outside sleeping rooms [Medium-High]; and

(2) On each level of a home with multiple levels. [Medium-High]

(b) Depending on the size and layout of the home, additional smoke detectors may be required based on the manufacturer's or the state or local fire authority's instructions. [Medium-High]

§749.2911. How must smoke detectors be installed and maintained at a foster home?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 1, Health and Safety

January 2017

Smoke detectors must be installed and maintained according to the manufacturer's instructions, or in compliance with the state or local fire authority's instructions. [Medium-High]

§749.2913. How many fire extinguishers must a foster home have?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 1, Health and Safety

January 2017

(a) A foster home must have a fire extinguisher:

(1) In each kitchen [Medium-High]; and

(2) On each level of the home. [Medium-High]

(b) The fire extinguisher(s) must:

(1) Be serviced or replaced after each use [Medium-High]; and

(2) Have a maintenance check once a year by a person qualified to inspect fire extinguishers. [Medium-High]

Technical Assistance
It is a good idea to mount fire extinguishers on the wall by a hanger or bracket, with the top of the extinguisher no higher than five feet above the floor and the bottom at least four inches above the floor or any other surface. If a state or local fire authority has different mounting instructions, follow those instructions.

§749.2915. Where must a foster home store dangerous tools and equipment?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 1, Health and Safety

September 2010

A foster home must store dangerous tools and equipment, such as hatchets, saws, and axes, so they are inaccessible to children. Children may use these tools and equipment, with caregiver supervision as needed based on the child's age, maturity, and treatment issues. [Medium-High]

§749.2917. What are the requirements for animals that are present at a foster home?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 1, Health and Safety

January 2017

(a) Any animals on the premises of a home must be kept free of disease and must not create health problems or a health risk for children. [Medium-High]

(b) Animals must be vaccinated and treated as recommended by a licensed veterinarian.

(c) The caregivers must have documentation at the home showing that dogs and cats have been vaccinated as required by Texas Health and Safety Code, Chapter 826.

Division 2, Tobacco and E-Cigarette Use

§749.2931. What policies must I enforce regarding tobacco products and e- cigarettes?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 2, Tobacco and E-Cigarette Use

January 2017

(a) A child may not use or possess tobacco products, e-cigarettes, or any type of vaporizers. [Medium-High]

(b) Caregivers and other adults may only smoke tobacco products, e-cigarettes, and vaporizers outside. [Medium-High]

(c) No one may smoke tobacco products, e-cigarettes, or vaporizers in a motor vehicle while transporting children in care. [Medium-High]

Division 3, Weapons, Firearms, Explosive Materials, and Projectiles

§749.2961. Are weapons, firearms, explosive materials, and projectiles permitted in a foster home?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 3, Weapons, Firearms, Explosive Materials, and Projectiles

April 2022

(a) Generally, weapons, firearms, explosive materials, and projectiles (such as darts or arrows), are permitted. However, there are some specific restrictions.

(1) If you allow weapons, firearms, explosive materials, or projectiles, you must develop and enforce a policy identifying specific precautions to ensure that a child does not have unsupervised access to them, including requiring a foster parent to keep them in locked storage when they are not in use. [High]

(2) You must determine that it is appropriate for a specific child to use the weapons, firearms, explosive materials, or projectiles [High]; and

(3) No child may use a weapon, firearm, explosive material, or projectile, unless the child is directly supervised by an adult knowledgeable about the use of the weapon, firearm, explosive material, or projectile that is to be used by the child. [High]

(b) Your policies must require foster parents to notify you if there is a change in the type of or an addition to weapons, firearms, explosive materials, projectiles, or toys that explode or shoot that are on the property where the foster home is located. [High]

(c) You must determine whether it is appropriate for a specific child to use a toy that explodes or shoots. The child must be supervised when using or being around a toy that explodes or shoots, and the toy must be age appropriate to the child. [Medium-High]

(d) Firearms which are inoperable and solely ornamental are exempt from the storage requirements in this rule.

Technical Assistance
Regarding subsection (c), a “toy that explodes or shoots” does not pertain to Nerf guns, water guns, or other toys that are appropriate for children and do not present a risk to safety.

§749.2963. What factors must I consider when determining whether weapons, firearms, explosive materials, or projectiles are stored adequately?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 3, Weapons, Firearms, Explosive Materials, and Projectiles

January 2007

When determining if these items are stored adequately, you must consider the age, history, emotional maturity, and background of the children in the home. [High]

§749.2965. How must I determine whether weapons, firearms, explosive materials, or projectiles are present in a foster home?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 3, Weapons, Firearms, Explosive Materials, and Projectiles

January 2007

(a) When you complete a foster home screening, you must ask whether weapons, firearms, explosive materials, or projectiles are present in the home. If these items are present, you must review your policies and requirements with the prospective foster parents. [High]

(b) The foster home record must include documentation on the:

(1) Items present in the home [Medium-High]; and

(2) Specific precautions the caregivers must take to ensure that children do not have unsupervised access. [Medium-High]

(c) The two-year evaluation of compliance with rules of this chapter must include a discussion of whether the home has weapons, firearms, explosive materials, or projectiles, and if so, how these items are stored. [High]

§749.2967. May a caregiver transport a child in a vehicle where firearms, other weapons, explosive materials, or projectiles are present?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 3, Weapons, Firearms, Explosive Materials, and Projectiles

April 2022

(a) A caregiver may transport a child in a vehicle where firearms (other than handguns), other weapons, explosive materials, or projectiles are present if:

(1) All firearms are not loaded [High];

(2) The firearms, other weapons, explosive materials, or projectiles are inaccessible to the child [High]; and

(3) Possession of the firearm is legal. [High]

(b) A caregiver may transport a child in a vehicle where a handgun is present if:

(1) The handgun is in the possession and control of the caregiver [High]; and

(2) The caregiver is not prohibited by law from carrying a handgun. [High]

Division 4, Space and Equipment

§749.3021. How much space must bedrooms used by foster children have?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 4, Space and Equipment

January 2007

(a) A bedroom must have at least 40 square feet of space for each occupant and no more than four occupants per bedroom are permitted, even if the square footage of the room would accommodate more than four occupants. The four occupants restriction does not apply to children receiving treatment services for primary medical needs. [Medium]

(b) Single occupant bedrooms must have at least 80 square feet of floor space. [Medium]

(c) The floor space requirement must not include closets or other alcoves. [Medium-Low]

(d) Floor space must be space that children can use for daily activities. [Medium]

(e) If a foster home was verified before January 1, 2007, then a foster home is exempt from the maximum bedroom occupancy requirement until:

(1) The foster family moves to a new home;

(2) The foster home is structurally altered by adding a new room; or

(3) The foster home's verification is no longer valid.

§749.3023. Which rooms in the home may not be used as bedrooms?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 4, Space and Equipment

September 2010

(a) Only a room that provides adequate opportunities for rest and privacy may be used as a bedroom. [Medium]

(b) Bedrooms used by foster children must have at least one source of natural lighting. [Medium-Low]

(c) Foster children or any other household members may not use any of the following as a bedroom:

(1) A room commonly used for other purposes, including dining rooms, living rooms, hallways, or porches [Medium-Low];

(2) A passageway to other rooms [Medium-Low]; or

(3) A room that does not have doors for privacy. [Medium-Low]

(d) A foster child may use a detached structure as a bedroom if:

(1) The child is 16 years old or older [Medium-High];

(2) The service planning team approves [Medium-High]; and

(3) The detached structure is included in required fire and health inspections for the foster home. [High]

(e) A foster child may use a basement as a bedroom if there is a second fire escape route from the basement. [Medium-High]

(f) A foster child may not use a room, including a basement or detached structure, as a bedroom if there is no natural lighting [Medium-Low]:

(1) Unless you verified the home prior to January 1, 2007; and

(2) Until the verification is no longer valid, or the home is structurally altered through the addition of a new room.

§749.3025. May an adult in care share a bedroom with a child in care?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 4, Space and Equipment

April 2022

(a) An adult in care may share a bedroom with a child in care if [Medium-Low]:

(1) The adult and child are siblings;

(2) The adult is the child's parent;

(3) Both of them are non-ambulatory and receive treatment services for primary medical needs; or

(4) The child is at least 16 years old, the age difference between them does not exceed 24 months, and the adult meets the requirements of:

(A) §749.1103 of this chapter (relating to After a child in my care turns 18 years old, may the person remain in my care?); or

(B) §749.1105 of this chapter (relating to May I admit a young adult into care?).

(b)The following must occur before you may allow an adult in care and a child in care to share a bedroom, unless the adult is the child's parent:

(1) The service planning team must determine that there is no known risk of harm to the child after assessing [Medium]:

(A) Their behaviors [Medium];

(B) Their compatibility with each other [Medium];

(C) Their respective relationships [Medium];

(D) Any history of possible sexual trauma or sexually inappropriate behavior [Medium]; and

(E) Any other identifiable factor that may affect the appropriateness of the adult and the child sharing a bedroom [Medium]; and

(2) The service planning team must date and document the assessment and approval in the child's service plan. [Medium-Low]

(c) The adult and the child must not sleep in the same bed unless the adult is the child's parent, and the child is between the ages of one year and 10 years old. [High]

(d) Subsections (a) and (b) of this section do not apply to travel and camping situations.

§749.3027. May a child in care share a bedroom with an adult caregiver in the foster home?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 4, Space and Equipment

April 2022

(a) A child may share a bedroom with an adult caregiver if:

(1) It is in the best interest of the child [Medium];

(2) The child is under three years old and sleeps in the bedroom of a caregiver [Medium]; and

(3) The service planning team dates and documents the approval in the child's service plan. [Medium]

(b) An exception for a child to share a bedroom with an adult caregiver may be made during specific travel and camping situations if no other more reasonable provision is available to the child and other requirements are met. [Medium]

(c) Children may not sleep in the same bed with an adult caregiver at any time. [High]

(d) To facilitate continuous supervision of a child, the caregiver may move a child to a location where the caregiver can directly and continuously supervise a child until there is no longer an immediate danger to self or others. However, the caregiver must provide comfortable sleeping arrangements for the child. [Medium-Low]

§749.3029. May children of opposite genders share a bedroom?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 4, Space and Equipment

April 2022

(a) A child six years old or older must not share a bedroom with a child of the opposite gender, unless [Medium-Low]:

(1) They are siblings;

(2) The older child is the younger child's parent; or

(3) Both children are non-ambulatory and receive treatment services for primary medical needs.

(b) The following must occur before you may allow children of the opposite sex to share a bedroom, unless the older child is the younger child's parent:

(1) The service planning team must determine that there is no known risk of harm to either of the children after assessing [Medium]:

(A) Their behaviors [Medium];

(B) Their compatibility with each other [Medium];

(C) Their respective relationships [Medium];

(D) Any history of possible sexual trauma or sexually inappropriate behavior [Medium]; and

(E) Any other identifiable factor that may affect the appropriateness of the children sharing a bedroom [Medium]; and

(2) The service planning team must date and document the assessment and approval in each child's service plan. [Medium-Low]

§749.3031. What are the requirements for beds and bedding?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 4, Space and Equipment

January 2017

(a) Each foster child shall have their own bed and mattress. This does not prevent a child receiving respite care or requiring closer supervision from sleeping on a couch, sleeping bag, etc. for fewer than seven days. [Medium-High]

(b) Beds must be clean and comfortable. [Medium]

(c) Mattresses must be off of the floor and have covers or protectors. [Medium]

(d) Linens must be changed when soiled, and not less often than once a week. [Medium]

Technical Assistance
Mattress covers are not required to be plastic. Mattress covers are intended to provide an additional layer of protection between the child and the mattress, which may help prevent contamination of the mattress by a child's bodily fluids or spread of germs from the mattress to the child (since multiple children may use the same mattress over the course of time). Regular washing of mattress covers may also be helpful to children who are allergic to dust mites.

§749.3033. What type of personal storage space must a foster child have?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 4, Space and Equipment

January 2007

Each child must have accessible storage space for his clothing and personal possessions. [Low]

§749.3035. What bathroom accommodations must a home have?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 4, Space and Equipment

January 2007

(a) A foster home must have one lavatory, one tub or shower, and one toilet for every eight household members. A foster home verified before January 2007, is exempt from this requirement until it is no longer verified by the agency under which it is currently verified, or it makes structural changes to the home by adding additional bathrooms. [Medium-Low]

(b) All lavatories, tubs, and showers must have hot and cold running water. [Medium-Low]

(c) For foster homes that care for primary medical needs children, the child's bedroom and the child's bathroom must be located on the same floor. A foster home verified before January 1, 2007, is exempt from this requirement until it is no longer verified by the agency. [Medium]

(d) Bathrooms must allow for privacy. [Medium-High]

§749.3037. What are the requirements for indoor space that children can use?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 4, Space and Equipment

January 2007

(a) Children must have indoor areas for their use. There must be at least 40 square feet for each child. This does not include bedrooms, kitchens, bathrooms, utility rooms, unfinished attics, or hallways. [Medium-Low]

(b) A foster home must identify indoor areas that children can use. [Low]

(c) You must approve the indoor space that a home designates for the children's use. [Medium-Low]

§749.3039. What are the requirements for outdoor recreation equipment?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 4, Space and Equipment

January 2017

(a) Equipment must not have openings, angles, or protrusions that can entangle a child's clothing or entrap a child's body or body parts. [Medium-High]

(b) Equipment must be securely anchored according to manufacturer's specifications to prevent collapsing, tipping, sliding, moving, or overturning. [Medium-High]

(c) Climbing equipment, swings, and slides must not be installed over asphalt or concrete. [Medium-High]

(d) Equipment must be appropriate, cleaned, maintained, and repaired. [Medium-High]

(e) Trampolines may only be used at the foster home if [Medium-High]:

(1) The number of children allowed on the trampoline at one time meets the manufacturer's instructions [Medium-High];

(2) Shock-absorbing pads cover the springs, hooks, and frame [Medium-High];

(3) Ladders are removed from the trampoline when the trampoline is not in use [Medium-High];

(4) A caregiver provides supervision as follows:

(A) For children under 12 years old, the caregiver must be immediately present, watching the child(ren) at all times, enforcing safety rules and manufacturer's instructions, and able to respond in an emergency [Medium-High]; and

(B) For children 12 years old and older, the caregiver must be on the premises, visually check on the child(ren) at frequent intervals, and able to respond in an emergency. [Medium-High]

§749.3041. What are the requirements for a foster home's physical environment?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 4, Space and Equipment

September 2010

The foster home must ensure that:

(1) The home is safe for children, kept clean, and in good repair [Medium-High];

(2) Equipment and furniture are safe for children, kept clean, and in good repair [Medium-High];

(3) Exits in living areas are not blocked by furniture. [Medium-High]

(4) The outdoor areas are safe for children, kept clean, and in good repair [Medium-High];

(5) Outdoor areas are well drained [Medium-High];

(6) Windows and doors used for ventilation are screened [Medium-High];

(7) Flammable or poisonous substances are stored out of the reach of children unless caregivers have evaluated a child as capable and likely to use such items responsibly [Medium-High]; and

(8) The home is free of rodents and insects. [High]

Technical Assistance
Repair work that is scheduled or in progress may be considered as compliance with the requirements in this rule, as long as any risk to children has been adequately addressed. Related to subsection (8), this includes reasonable and timely efforts to control insects, such as regularly scheduled exterminator visits.

§749.3043. When is a product considered unsafe and what are a **caregiver's responsibilities regarding unsafe products in a foster** home?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 4, Space and Equipment

April 2022

(a) A product is considered unsafe if, after it has been recalled for any reason by the United States Consumer Product Safety Commission (CPSC):

(1) The recall has not been rescinded; and

(2) The product has not been made safe through being remanufactured or retrofitted.

(b) A caregiver is responsible for reviewing the CPSC recall list. All current and past recalls may be viewed through the CPSC's Internet website at: www.cpsc.gov. A caregiver must ensure that there are no unsafe products at the foster home unless:

(1) The product is an antique or collectible and is not used by, or accessible to, any child [Medium-High]; or

(2) The unsafe product is being retrofitted to make it safe and the product is not used by, or accessible to any child. [Medium-High]

Division 5, Nutrition and Food Preparation

§749.3061. What are the requirements for feeding children in care?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 5, Nutrition and Food Preparation

January 2017

(a) Caregivers must feed an infant whenever the infant is hungry. [Medium-High]

(b) Caregivers must provide a toddler or school age child with three meals and at least one snack a day. [Medium-High]

(c) No more than 14 hours may pass between the last meal or snack of the day and the availability of the first meal the following day. [Medium-High]

Technical Assistance
Best practice suggests that toddlers and pre-school children should not go more than three hours without a meal or snack being offered, unless the child is sleeping or unless otherwise justified in writing by the child's health-care professional. Likewise, school-age children should not go more than six hours without a meal or snack being offered, unless the child is sleeping or unless otherwise justified in writing by the child's health-care professional.

§749.3063. What types of food and water must caregivers provide children?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 5, Nutrition and Food Preparation

January 2007

(a) Caregivers must provide a child with food that is:

(1) Of adequate variety, quality, and in sufficient quantity to supply the nutrients needed for proper growth and development according to the United States Department of Agriculture guidelines [Medium-High]; and

(2) Appropriate for the child's age and activity level. [Medium-High]

(b) Caregivers must not serve a child nutrient concentrates and supplements, such as protein powders, liquid protein, vitamins, minerals, and other nonfood substances in lieu of food to meet the child's daily nutritional need, except with written instructions from a licensed health-care professional. [Medium-High]

(c) Caregivers must ensure drinking water is always available to each child and is served in a safe and sanitary manner. Children must be well hydrated and must be encouraged to drink water during physical activity and in warm weather. [Medium-High]

Technical Assistance

Children's Nutrition

Research suggests the following:

- Milk and milk products served to children 12 months old or older should be Grade A pasteurized or from sources approved by the Department of State Health Services.

The following milks do not contain the right amounts of all the nutrients infants need and can harm an infant's health. Iron-fortified infant formula is the best substitute for breast milk. Infants should not be given the following unless recommended by the infant's health-care professional:

- Cow's milk;
- Evaporated cow's milk or home-prepared evaporated cow's milk formula;
- Sweetened condensed milk;
- Goat's milk;
- Soy milk; or
- Imitation milks, including those made from rice or nuts (such as almonds) or nondairy creamer.

(http://www.fns.usda.gov/tn/Resources/feeding_infants.html Feeding Infants: A Guide for Use in the Child Nutrition Programs p.24)

- Milk should be fluid milk.
- Breads and grains should be made from whole-grain or enriched meal or flour.
- Cereal should be whole grain or enriched or fortified.
- Vegetable or fruit juices should be 100% vegetable or fruit juice when used to meet a serving from the vegetable or fruit group.
- Children under one year old should not be offered unpasteurized or raw honey because it may contain spores that pose a health risk.

Technical Assistance

Food Allergies

A food allergy is caused by the body's immune system reacting inappropriately to a food or food additive. Symptoms may include wheezing, difficulty breathing, diarrhea, rashes, itching, hives, and headaches. Food allergies are most common in infants, due to their immature digestive systems. Food allergies are usually outgrown during the preschool years. Although any food may cause an allergic reaction, six foods are responsible for most of these reactions in children. These foods are:

- Peanuts;
- Eggs;
- Milk;
- Tree nuts;
- Soy; and
- Wheat.

A child who is pregnant or breastfeeding should avoid consuming peanuts and peanut products due to its association with the development of peanut allergies in infants. It is best not to offer children under two to three years old peanuts or peanut products, such as peanut butter and foods containing or cooked in peanut oil, because of the potential of developing this life-threatening and often life-long allergy. Foods that cause allergic reactions should be eliminated from the diet. However, it is important that the diet still contain a variety of foods for healthy growth and development. A child should receive a medical evaluation if food allergies are suspected. If the child's licensed physician determines that the child has a food allergy, a determination should be made of whether the child's allergic condition meets USDA's definition of disability.

Food Intolerance

A food intolerance is an adverse food-induced reaction that does not involve the body's immune system. Lactose intolerance is one example of food intolerance. A person with lactose intolerance lacks an enzyme needed to digest milk sugar. When that person eats milk products, gas, bloating, and abdominal pain may occur. It is best to provide food substitutions for children with food intolerances who cannot consume the regular meal.

(http://www.fns.usda.gov/tn/Resources/blocks1.pdf

§749.3065. What must the caregiver do if a child refuses to or cannot eat a meal or snack that is offered?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 5, Nutrition and Food Preparation

January 2007

(a) The caregiver must offer a child a meal or snack according to this division, but the caregiver may not force the child to eat. The caregiver does not have to offer other food to a child who [Medium-High]:

(1) Refuses a meal or snack; or

(2) Chooses not to be present when a meal or snack is scheduled.

(b) The caregiver must discuss recurring eating problems with child placement staff and the child's parent. [Medium]

(c) If a meal or snack is not appropriate to meet a child's individual needs, for example food allergies or religious reasons, then you must offer the child an appropriate nutritional substitute. [Medium-High]

§749.3067. May a caregiver use food as a reward or punishment or as part of any behavior management program?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 5, Nutrition and Food Preparation

January 2007

A caregiver may not use food that meets a child's nutritional requirements as a reward or punishment or as part of a behavior management program. Food cannot be withheld. [Medium-High]

§749.3069. May caregivers offer a child in care different food choices than what the family is eating?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 5, Nutrition and Food Preparation

January 2007

(a) A caregiver must offer a child in care the same food choices that other children in the home are offered, unless medically contraindicated for the child. [Medium]

(b) A caregiver must offer a child in care food choices that are at least comparable to what the adults in the home are eating, unless medically contraindicated for the child. [Medium]

§749.3071. What must I do if a child requires a therapeutic or special diet?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 5, Nutrition and Food Preparation

January 2007

(a) For a caregiver to serve a therapeutic or special diet to a child, you must have written approval in the child's record from a licensed physician or a registered or licensed dietician. This approval must be in the child's record. [Medium-High]

(b) If a child requires a therapeutic or special diet, you must give information regarding the diet to the child's caregivers. [Medium-High]

(c) Caregivers must make dietary alternatives available to a child who has special health needs as instructed by a licensed health-care professional. [Medium-High]

§749.3073. What are the nutrition requirements for a child with primary medical needs?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 5, Nutrition and Food Preparation

January 2007

(a) Caregivers must feed a child with primary medical needs according to his medical and developmental needs. [Medium-High]

(b) A licensed physician must prescribe tube feeding. A dietician or physician must plan the diet that the physician prescribes. [Medium-High]

(c) Children must eat in an upright position unless the service planning team's recommendations are to the contrary. [Medium-High]

§749.3075. What are the feeding requirements for children receiving treatment services for primary medical needs or intellectual disabilities?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 5, Nutrition and Food Preparation

January 2017

(a) Caregivers must encourage self-help and development when feeding children receiving treatment services for primary medical needs or intellectual disabilities, including non-mobile children. [Medium]

(b) A toddler or older child must eat or be fed in the dining area, unless the service planning team's recommendations are to the contrary. [Medium-Low]

(c) Infants must be held during feedings, unless the service planning team's recommendations are to the contrary. [Medium-High]

§749.3077. What are the requirements for tube-feeding formula?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 5, Nutrition and Food Preparation

January 2007

(a) A registered or licensed dietician, physician, or a registered nurse must ensure and document that the caregiver that prepares formula is adequately trained and has demonstrated competency in preparing the formula. [Medium-High]

(b) Tube-feeding formulas must supply the recommended dietary allowance for each child. [Medium-High]

(c) Caregivers must prepare and store the formula [High]:

(1) According to directions; or

(2) As prescribed by a health-care professional.

§749.3079. What are the requirements for storing food?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 5, Nutrition and Food Preparation

September 2010

All food items must be:

(1) Covered and stored off the floor [Medium-High];

(2) Stored on clean surfaces [Medium-High];

(3) Protected from contamination [Medium-High];

(4) Stored in a container that is protected from insects and rodents [Medium-High];

(5) Refrigerated immediately after use and after meals, if the food requires refrigeration [Medium-High]; and

(6) Covered when stored in the refrigerator. [Medium-High]

§749.3081. How must kitchen, dining areas, supplies, and equipment be maintained?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 5, Nutrition and Food Preparation

January 2007

(a) Caregivers must keep furniture, equipment, food contact surfaces, and other areas where food is prepared, eaten, or stored clean and well repaired. [Medium-High]

(b) Utensils and containers intended for one-time use, such as paper and plastic dishes, must not be used more than once. [Medium]

Division 6, Transportation

§749.3101. What are the requirements for the vehicles used to transport foster children?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 6, Transportation

January 2007

Vehicles used to transport foster children must be:

(1) Maintained in safe operating conditions at all times [Medium-High]; and

(2) Inspected and registered according to federal, state, and local laws. [Medium-Low]

§749.3103. What are the requirements for transporting foster children?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 6, Transportation

January 2017

The driver and all passengers must follow all federal, state, and local laws when driving, including laws on the use of a child passenger safety seat system, seat belts, and liability insurance. [Medium-High]

Technical Assistance
The Texas Transportation Code prohibits allowing a child under five years old to ride on a motorcycle, unless seated in a sidecar. Below is a chart from the web site of the Texas Department of Public Safety regarding child passenger safety seat system.

2013 Child Passenger Safety National Best Practice Recommendations

Phase	Type of Restrictive Device	Best Practice Recommendation
Phase 1	Rear-Facing Seats	Infants: Birth – 35+ pounds, 2+ years old. Rear-facing infant or rear-facing convertible safety seat as long as possible, up to the rear-facing height or weight limit of the seat. Properly install according to instructions in owner's manual, rear- facing in the back seat.
Phase 2	Forward-facing Seats	When children outgrow the rear-facing safety seat (2+ years), they should ride in a forward-facing safety seat as long as possible, up to the upper height or weight limit (40 – 80+ pounds) of the harnesses. Usually 4+ years old. Properly installed forward-facing in the back seat. NEVER turn forward-facing before child meets all: AGE/HEIGHT/WEIGHT requirements set by safety seat manufacturer for forward-facing.
Phase 3	Booster Seats	After age 4 and 40+ pounds, children can ride in a booster seat with the adult lap and shoulder belt until the adult safety belt will fit them properly (usually when the child is 4'9" tall, 10 – 12 years old). MUST have a lap/shoulder belt to use a booster seat.
Phase 4	Adult Safety Belt	Once children outgrow their booster seat (usually at 4'9", 10 – 12 years) they can use the adult lap/shoulder safety belt if it fits them properly. Lap portion low over the hips/tops of thighs and shoulder belt crosses the center of the shoulder and center of the chest.

Children are better protected the longer they can stay in each phase. Keep children in each seat up to the MAXIMUM age/weight/height limits before moving to the next phase. ALL children younger than age 13 years should ride properly restrained in the back seat.

§749.3105. May children transport other foster children?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 6, Transportation

January 2007

Other children in the foster home may transport a foster child if the:

(1) Child driving has a valid drivers license [Medium]; and

(2) Service planning teams for the foster children being transported and the foster child transporting, if applicable, approve of the transportation arrangements. [Medium]

§749.3107. May caregivers teach or supervise foster children in learning to drive?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 6, Transportation

September 2010

(a) With your approval, caregivers may teach or supervise foster children in learning to drive. You must document your approval in the child's record. [Medium]

(b) Only the caregiver responsible for instruction and the child(ren) learning to drive may be present in the vehicle. [Medium]

Technical Assistance
It is recommended that any plan to teach a child to drive include the use of the Texas Department of Licensing and Regulation Parent Taught Driver Education Program or approved driving training school.

§749.3109. What are the special requirements for transporting a child who requires increased supervision or is non-ambulatory or non-mobile?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 6, Transportation

January 2007

(a) A sufficient number of caregivers to meet the child's needs must accompany the child. [Medium-High]

(b) Special provision(s) must be made for transporting non-ambulatory and non-mobile children. When necessary, this must include locks for wheelchairs and hydraulic lifts. [Medium-High]

§749.3111. Do the seat belt requirements prohibit transporting children in the bed of a pick-up truck or other parts of the vehicle on **the foster parents' property or public roads?**

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 6, Transportation

January 2007

Yes. Children must be inside the vehicle when transported. The back of a pick-up truck is not considered inside the vehicle. Children must never be transported in the bed of a pick-up truck, while standing on runners, or while on the hood or trunk of any vehicle. [High]

Division 7, Swimming Pools, Bodies of Water, Safety

§749.3131. Who is responsible for complying with the requirements in this subchapter?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 7, Swimming Pools, Bodies of Water, Safety

January 2007

These requirements only apply to homes that are providing foster care services. This includes foster homes also approved as adoptive homes, but does not include adoptive homes only approved for adoption.

§749.3133. What are the requirements for a swimming pool at a foster home?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 7, Swimming Pools, Bodies of Water, Safety

April 2022

(a) The caregivers must inform children about house rules for use of the swimming pool and appropriate safety precautions. Adult supervision and monitoring of safety features must be adequate to protect children younger than 12 years of age and children of any age who are not competent swimmers from unsupervised access to the swimming pool. [High]

(b) The swimming pool must be built and maintained according to the standards of the Texas Department of State Health Services and any other applicable state or local regulations. [Medium-High]

(c) The swimming pool must have a barrier, including a fence or wall, that prevents a child's unauthorized access to the swimming pool. A swimming pool cover does not meet this requirement unless it is a power safety cover that meets the specifications of the American Society for Testing Materials, which specifies safety performance requirements for pool covers. [High]

(d) A fence or wall that is at least four feet high must enclose the pool area. The fence must be well constructed and be installed completely around the pool area.

The back wall of a house may serve as one side of the fence or wall as long as the requirements in subsection (f) of this section are met. [High]

(e) Fence gates leading to the outdoor pool area must be self-closing and self-latching. Gates must be locked when the pool is not in use. Keys or locks to open the gate must not be accessible to children under the age of 12 years old, children of any age who are not competent swimmers, or any children receiving treatment services. [High]

(f) If the home serves as one side of the fence or wall, any door that leads from the home to the swimming pool area must have:

(1) A door alarm [High]; and

(2) A lock that only adults or children over 12 years old can reach. The lock must be completely out of the reach of children younger than 12 years old [High], unless:

(A) The state or local fire authority determines that the height of the lock violates or would violate the fire code; and

(B) The fire authority's determination is kept in the foster home record.

(g) Furniture, equipment, or large materials must not be close enough to the swimming pool area for a child to use them to gain unauthorized access to the swimming pool. [High]

(h) At least two life-saving devices must be available, such as a reach pole, backboard, buoy, or a safety throw bag with a brightly colored buoyant rope or throw line. One additional life-saving device must be available for each 2,000 square feet of water surface, so a swimming pool of 2,000 square feet would require three life saving devices. [High]

(i) Drain grates must be in place, in good repair, and capable of being removed only with tools. [High]

(j) Caregivers must be able to clearly see all parts of the swimming pool when supervising activity in the area. [High]

(k) The bottom of the swimming pool must be visible at all times. [High]

(l) Swimming pool covers must be completely removed prior to pool use. [High]

(m) An adult must be present who is able to immediately turn off the pump and filtering system when any child is in the swimming pool. [High]

(n) Swimming pool chemicals and pumps must be inaccessible to all children. [Medium-High]

(o) Machinery rooms must be locked to keep children out. [Medium-High]

(p) An above ground swimming pool must:

(1) Be inaccessible to children under the age of 12 years old, children of any age who are not competent swimmers, or any children receiving treatment services when it is not in use [High]; and

(2) Meet all other requirements in this division. [High]

Technical Assistance
Regarding subsection (c), you may review the specifications for pool covers noted by the American Society for Testing Materials at http://www.astm.org/. Regarding subsection (d), a backyard fence combined with the back wall of a house will meet the intention of the rule; therefore, no additional fence or wall is needed also long as it meets all fence/wall and gate criteria in §749.3133(d) and (f). Subsection (a) requires that children may not have unsupervised access to the pool area. Therefore, if the backyard fence serves as the pool fence/wall, then children may not have unsupervised access to the back yard and doors leading to the back yard must comply with §749.3133(f). If the entire backyard is serving as the pool area, children may not be in the backyard without direct caregiver supervision. Regarding subsection (p), you must ensure the stairs to an aboveground swimming pool are inaccessible to children.

§749.3135. What general requirements must caregivers meet for children regarding a body of water?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 7, Swimming Pools, Bodies of Water, Safety

January 2017

(a) Caregivers must use prudent judgment and ensure children in your care who are younger than 12 years old, children of any age who are not competent swimmers, and children receiving treatment services are protected from unsupervised access to water such as a swimming pool, hot tub, fountain, pond, lake, creek, or other body of water. [High]

(b) If children are allowed to swim in a body of water such as a river, creek, pond, or lake, the supervising adult must clearly designate swimming areas. [High]

(c) Rules governing the activity and the dangers of the body of water must be explained to participants in a manner that is clearly understood prior to their participation. [Medium-High]

§749.3137. What are the child/adult ratios for swimming activities?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 7, Swimming Pools, Bodies of Water, Safety

April 2022

(a) The maximum number of children one adult can supervise during swimming activities is based on the age of the youngest child in the group and is specified in the following chart [Medium-High]:

If the age of the youngest child is...	Swimming Child/Adult Ratio
(1) 0 to 23 months old	1:1
(2) 2 years old	2:1
(3) 3 years old	3:1
(4) 4 years old	4:1
(5) 5 years old or older in a foster family home; and either: (A) One child is receiving treatment services for primary medical needs; or (B) Three or more children are receiving treatment services	4:1
(6) 5 years old or older in a foster family home, no children are receiving treatment services for primary medical needs, and no more than two children are receiving treatment services	6:1

(b) When all of the children in the group are at least four years of age or older, in addition to meeting the required swimming child/adult ratio listed in subsection (a) of this section, at least two adults must supervise four or more children who are actually in the water. [High]

(c) When a child who is non-ambulatory or who is subject to seizures is engaged in swimming activities, you must assign one adult to that one child. This adult must be in addition to any lifeguard on duty in the swimming area. You do not have to

meet this requirement if a licensed physician writes orders in which the physician determines that the child [High]:

(1) Is at low risk of seizures and that special precautions are not needed; or

(2) Only needs to wear a Coast Guard approved life jacket while swimming and additional special precautions are not needed.

(d) A lifeguard who is supervising the area where the children are swimming may be counted in the child/adult ratio; however, one caregiver must always be present and the lifeguard may not be the only person counted in the child/adult ratio.

(e) A child must wear a Coast Guard approved life jacket while participating in swimming activities in other bodies of water, such as ponds, rivers, lakes, and oceans, if the child is:

(1) Under the age of 12 [High]; or

(2) Unable to swim, regardless of the child's age. [High]

(f) The ratios in subsection (a) of this section:

(1) do not include children over the age of 12 years old who are competent swimmers.

(2) Are not required when children are participating in water activities such as sprinkler play or splash/wading pool, as long as the standing water is less than two feet.

Technical Assistance
Regarding subsection (b), if a foster parent takes four 4-year-olds swimming, subsection (a) only requires one person to supervise the four children. However, if all four 4-year-olds are in the water at the same time, then subsection (b) requires there to be at least two adults to supervise the children.

§749.3139. May I include volunteers or relatives who do not meet minimum qualifications for caregivers in the swimming child/adult ratio?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 7, Swimming Pools, Bodies of Water, Safety

January 2017

To meet the swimming child/adult ratio, you may include adult volunteers and adult relatives who do not meet the minimum qualifications for caregivers, providing:

(1) You maintain enough caregivers to meet the child/caregiver ratio required in Subchapter M, Division 5 of this chapter (relating to Capacity and Child/Caregiver Ratio) [High];

(2) Persons in your care do not supervise swimming activities [Medium-High]; and

(3) You ensure compliance with all other rules of this chapter, including, but not limited to, rules relating to supervision and discipline. [High]

§749.3141. When must a child wear a life jacket?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 7, Swimming Pools, Bodies of Water, Safety

January 2007

A child must wear a life jacket when:

(1) Participating in boating activities [High];

(2) The child is in more than two feet of water and does not know how to swim [High]; or

(3) Ordered by a physician for a child with a medical problem or disability. [High]

§749.3143. Must persons who are counted in the swimming child/adult ratio know how to swim and carry out a water rescue?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 7, Swimming Pools, Bodies of Water, Safety

January 2007

At all times during a swimming activity, at least one adult counted in the swimming child/adult ratio must be able to swim, carry out a water rescue, and be prepared to do so in an emergency. [High]

§749.3145. What are the safety requirements for wading pools?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 7, Swimming Pools, Bodies of Water, Safety

January 2007

Wading/splashing pools (less than two feet of water) must be:

(1) Stored out of children's reach, when not in use [Medium-High];

(2) Drained at least daily [Medium-High]; and

(3) Stored, so it does not hold water. [Medium-High]

§749.3147. What are the requirements for a hot tub?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 7, Swimming Pools, Bodies of Water, Safety

September 2010

A hot tub must be [High]:

(1) Enclosed per the requirements in §749.3133 of this title (relating to What are the requirements for a pool at a foster home?); or

(2) Covered with a locking cover when not in use.

§749.3149. What must I document regarding a body of water that is on or adjacent and accessible to the premises of a foster home?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 7, Swimming Pools, Bodies of Water, Safety

January 2007

You must document the following regarding a body of water that is on or adjacent and accessible to the premises of a foster home:

(1) Type, location, and size of the body of water [Medium]; and

(2) Barriers between the foster home and the body of water. [Medium]

§749.3151. Can foster parents approve a child to participate in swimming activities as an unsupervised childhood activity without complying with the rules of this division?

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 7, Swimming Pools, Bodies of Water, Safety

January 2017

Yes, a foster parent using the "reasonable and prudent parent standard" as defined in §749.2605 of this title (relating to What is the "reasonable and prudent parent standard"?) may approve a child to participate in unsupervised childhood activities (activities away from the foster home and the foster parents) involving swimming that do not comply with the rules of this Division of this subchapter (relating to Swimming Pools, Bodies of Water, Safety). However, depending upon the background of the child (for example the child's age, level of maturity and responsibility, and proficiency in swimming), such an approval may or may not require limitations like other adult supervision or the need for a life jacket when boating.

Subchapter P, Foster-Adoptive Homes and Legal Risk Placements

Division 1, Verification of Foster-Adoptive Homes

§749.3201. May I verify the same applicant as a foster family home and an adoptive placement at the same time?

Subchapter P, Foster-Adoptive Homes and Legal Risk Placements

Division 1, Verification of Foster-Adoptive Homes

January 2007

Yes. You may approve applicants as a foster-adoptive home.

§749.3203. What rules must I follow to verify a foster-adoptive home?

Subchapter P, Foster-Adoptive Homes and Legal Risk Placements

Division 1, Verification of Foster-Adoptive Homes

January 2007

(a) You must follow all rules for verifying a foster family home and for approving an adoptive home. [Medium]

(b) You may combine the foster home screening and pre-adoptive home screening into one screening report as long as requirements for each screening are covered. [Medium]

Division 2, Legal Risk Placements

§749.3221. What is a "legal risk placement"?

Subchapter P, Foster-Adoptive Homes and Legal Risk Placements

Division 2, Legal Risk Placements

January 2007

(a) A "legal risk placement" exists when you:

(1) Have a child that is not available for adoption because his parent(s)' rights have not been terminated;

(2) Have placed a child into a home that has been jointly verified as a foster home and approved as an adoptive home; and

(3) Intend for the placement to change from foster care to adoption once the child is eligible for adoption.

(b) A "legal risk placement" does not exist when you merely place a child with foster parents who want to adopt the child but have not been approved as an adoptive home.

Subchapter Q, Adoption Services: Children

Division 1, Consent

§749.3301. What legal authority must I have to place a child in adoptive care?

Subchapter Q, Adoption Services: Children

Division 1, Consent

September 2010

To place a child in adoptive care, you must have an agreement signed by you and the person legally authorized to consent to the child's placement. [Medium-High]

Division 2, Adoption Service Plan

§749.3321. When must I initiate and complete the adoption service plan?

Subchapter Q, Adoption Services: Children

Division 2, Adoption Service Plan

January 2007

(a) You must initiate the plan when you accept a child or enter into a written agreement with the birth parent for adoption placement services. [Medium-Low]

(b) You must complete the service plan within 40 days of initiation. [Medium-Low]

§749.3323. What must an adoption service plan include?

Subchapter Q, Adoption Services: Children

Division 2, Adoption Service Plan

January 2007

(a) The service plan must address:

(1) The needs of the birth parents (unless parental rights have been relinquished or involuntarily terminated), the fetus or child, and the adoptive family [Medium-Low]; and

(2) Any other issue that impacts the adoption. [Medium-Low]

(b) The adoptive family becomes part of the service plan when matched with a child, or with a birth parent and fetus. You do not have to develop separate service plans for adoptive families that do not have a completed home study. [Medium-Low]

(c) The plan must include specific strategies to meet the needs and issues identified, and an estimate of the time required to consummate the adoption. You must inform the birth parents (unless parental rights have been relinquished or involuntarily terminated) and adoptive parents of the services you provide. [Medium-Low]

§749.3325. When placing a sibling group, must I develop a plan for each child?

Subchapter Q, Adoption Services: Children

Division 2, Adoption Service Plan

January 2007

If you place siblings in the same adoptive home, you do not have to develop a plan for each child. If you place siblings in separate adoptive homes, you have to develop separate plans for each home. [Medium-Low]

§749.3327. If a child had a foster care service plan prior to preparation for adoption, must I complete a new adoption service plan?

Subchapter Q, Adoption Services: Children

Division 2, Adoption Service Plan

January 2007

No. The adoption service plan may be a continuation of the foster care service plan.

Division 3, Preparation for Adoption

§749.3341. How often must I have contact with a child being considered for adoptive placement?

Subchapter Q, Adoption Services: Children

Division 3, Preparation for Adoption

September 2010

(a) You must have contact at least quarterly with the child being considered for adoption. The contact must be meaningful and must include [Medium]:

(1) Continued preparation for adoption [Medium]; and

(2) Updated information concerning the adoption. [Medium]

(b) You must make a minimum of three face-to-face contacts with a child who is 18 months old or older to prepare the child for adoption. [Medium]

(c) You must make a minimum of one face-to-face contact with an infant who is age zero to 18 months old. [Medium]

(d) You must document each contact in the child's record. [Low]

(e) You may contract with another licensed child-placing agency to make these contacts as long as:

(1) The person making the contacts meets the minimum qualifications for a child placement staff per §749.673 of this title (relating to What are the qualifications that an employee must have to perform child placement activities?) [Medium];

(2) The agency submits the required documentation to you [Medium];

(3) Your child placement management staff reviews and approves the documentation [Medium]; and

(4) You maintain the documentation in the child's record. [Medium]

§749.3343. What does preparing a child for adoption include?

Subchapter Q, Adoption Services: Children

Division 3, Preparation for Adoption

September 2010

(a) Preparation must include helping a child five years old or older to [Medium]:

(1) Know and understand his history [Medium];

(2) Understand the difference between biological, foster, and adoptive parents [Medium];

(3) Express hopes and fears about adoption, including fears of disruption [Medium];

(4) Separate from people he is close to, and grieve their loss [Medium];

(5) Form new attachments [Medium]; and

(6) As appropriate, make a plan for contact with siblings, other family members, and/or other significant persons. [Medium]

(b) Preparation for children under five years old must include as many of the items in subsection (a) of this section as appropriate based on the child's age and intellectual level. [Medium]

(c) Regardless of the child's age, you must document in the child's record any items in subsection (a) of this section not addressed with the child during preparation for adoption and the reason for not addressing each item. [Low]

(d) You must document preparation activities in the child's record. [Low]

§749.3345. Who must prepare a child for adoption?

Subchapter Q, Adoption Services: Children

Division 3, Preparation for Adoption

January 2007

(a) A person meeting the qualifications of child placement staff or child placement management staff must prepare a child for adoption. [Medium]

(b) Before you can place the child in the adoptive home, child placement management staff must review and approve the preparation and related documentation. [Medium-Low]

§749.3349. What professional assessments must I obtain on a child being placed for adoption?

Subchapter Q, Adoption Services: Children

Division 3, Preparation for Adoption

September 2010

(a) The extent of the professional assessment required depends on the age, history, and special needs of the child being considered. [Medium]

(b) The professional assessment must always include a medical examination by a licensed physician. [Medium-High]

(c) If the child's age is zero to 18 months old, the professional assessment must also include an evaluation by a professional credentialed in the area appropriate to the child's needs if:

(1) There is history of abuse, neglect, or failure to thrive [Medium-High]; or

(2) The child is physically or mentally disabled or developmentally delayed. [Medium-High]

(d) If the child's age is over 18 months old, the assessment must include an evaluation by a licensed psychiatrist, psychologist, or other appropriately licensed or credentialed professional. [Medium-High]

(e) Required assessments must be current within:

(1) 30 days of placement if the child is less than 18 months old [Medium-Low];

(2) Three months of placement if the child is 18 months to four years old [Medium-Low]; and

(3) Six months of placement if the child is five years old or older. [Medium-Low]

(f) You must provide any testing that an assessment recommends for the child. [Medium-High]

(g) You must document the assessments and results in the child's record. [Medium-Low]

(h) If professional assessments have been completed since the child was placed in the home, you are not required to repeat them.

§749.3351. What information from the professional assessments must I share with the adoptive family?

Subchapter Q, Adoption Services: Children

Division 3, Preparation for Adoption

January 2007

You must share the following with the adoptive family:

(1) All information from the licensed physician and from the licensed psychiatrist, psychologist, or other licensed or credentialed professional about the potential impact on the child of existing conditions [Medium-High]; and

(2) All information about any further testing or assessments that these professionals recommend. Any such tests must be scheduled by the date of placement. [Medium-High]

§749.3353. What other referrals must I make regarding a child who has or may have a disability?

Subchapter Q, Adoption Services: Children

Division 3, Preparation for Adoption

January 2007

You must make a referral to the Social Security Administration to determine the child's eligibility for Social Security Income (SSI). [Medium-Low]

Division 4, Placement Requirements

§749.3371. What are the requirements for a child to visit the adoptive family prior to placement?

Subchapter Q, Adoption Services: Children

Division 4, Placement Requirements

January 2007

(a) Except in the case of children one month old and younger, a child must have at least one pre-placement visit with the adoptive family prior to placement. You must base the length, location, and number of visits on the age, development, and needs of the child. [Medium]

(b) You must schedule these visits over a period of time that ensures that both the child and the adoptive family have adequate time to prepare for the placement. The period of time should be based on the age and developmental needs of the child. [Medium]

(c) The planning for the pre-placement visits must include the child, if applicable, the foster parents, and the adoptive parents. [Medium]

(d) You must document the plan for pre-placement visits. Your child placement management staff must approve the plan before visits are initiated. [Low]

§749.3373. What must my agreement with the adoptive parents include?

Subchapter Q, Adoption Services: Children

Division 4, Placement Requirements

September 2010

(a) Before placing the child into the home, you must have a written agreement with the adoptive parents signed by you and the adoptive parents. [Medium]

(b) You must give a signed copy of this agreement to the adoptive parents and place a copy in the case record. [Medium-Low]

(c) The agreement must specify the following:

(1) The parties' agreement to complete the adoption at a specified time [Medium-Low];

(2) The adoptive parents agreement for you to supervise them prior to the completion of the adoption [Medium];

(3) That the adoptive parents must notify you before moving their residence prior to the completion of the adoption [Medium-High];

(4) That you and the adoptive parents each have the discretion to end the placement prior to the adoption [Medium]; and

(5) The fee and schedule of payment. [Low]

§749.3375. May I place a child in the home of a prospective adoptive parent before I complete the adoptive home screening?

Subchapter Q, Adoption Services: Children

Division 4, Placement Requirements

September 2010

This may be done only if the prospective adoptive parent is a [High]:

(1) Member of the child's family related by the second degree of consanguinity or affinity; or

(2) Foster family with whom the child has been living immediately prior to the request for an adoptive home screening.

Division 5, Required Information

§749.3391. What information must I compile for a child I am considering for adoptive placement?

Subchapter Q, Adoption Services: Children

Division 5, Required Information

September 2022

(a) As part of the Health, Social, Educational, and Genetic History report, you must compile the following information for a child you are considering for adoption placement:

Type of Information	Including
(1) Abuse or neglect history,	Physical, sexual, or emotional abuse history. [Medium-High]

Type of Information	Including
(2) Health history,	(A) Current health status [Medium-High]; (B) Birth history, neonatal history, and other medical, dental, psychological, or psychiatric history, including [Medium-High]: (i) Available results and diagnoses of any medical or dental examinations; (ii) Available results and diagnoses of any psychological, psychiatric, or social evaluations or suicide risk assessments; and (iii) To the extent known by the Department of Family and Protective Services based on information collected under Human Resources Code §264.019: (I) Whether the child's birth mother consumed alcohol during pregnancy; and (II) Whether the child has been diagnosed with fetal alcohol spectrum disorder; and (C) Immunization record. [Medium-High]
(3) Social history,	Information about past and existing relations among the child and the child's siblings, birth parents, extended family members, and other persons who have had physical possession of or legal access to the child. [Medium]
(4) Educational history,	(A) Enrollment and performance in educational institutions [Medium]; (B) Results of educational testing and standardized tests [Medium]; and (C) Special educational needs, if any. [Medium]
(5) Family history,	Information about the child's birth parents, maternal and paternal grandparents, other children born to either of the child's birth parents, and extended family members, including their [Medium]: (A) Health and medical history, including any information obtained in the medical history report and information on genetic diseases or disorders [Medium]; (B) Current health status [Medium]; (C) If deceased, cause of and age of death [Medium]; (D) Height, weight, eye, and hair color [Medium-Low]; (E) Nationality and ethnic backgrounds [Medium-Low]; (F) General levels of educational and professional achievements [Medium-Low]; (G) Religious backgrounds [Medium-Low];

Type of Information	Including
	(H) Results of any psychological, psychiatric, or social evaluations, including the date of any such evaluation, any diagnosis, and a summary of any findings [Medium]; (I) Any criminal conviction record relating to the following: (i) A misdemeanor or felony classified as an offense against the person or family [Medium-Low]; (ii) A misdemeanor or felony classified as public indecency; or (iii) A felony violation of a statute intended to control the possession or distribution of a substance included in the Texas Controlled Substances Act; and (J) Any information necessary to determine whether the child is entitled to, or otherwise eligible for, state or federal financial, medical, or other assistance. [Medium-Low]

Technical Assistance
For clause (2)(B)(iii)(II), Texas Family Code, §162.007(g) defines "fetal alcohol spectrum disorder" as "any of a group of conditions that can occur in a person whose mother consumed alcohol during pregnancy".

(b) In addition, you must document the following in the child's record:

Type of Information	Including:
(1) History of previous placements,	Information about the child's previous placements, including the dates and reasons for each placement. [Medium]
(2) Child's legal status,	Information about the child's legal status. [Medium]
(3) Child's understanding of adoptive placement,	Information about the child's understanding of adoptive placement. [Medium]

(c) This section does not apply to an adoption by the child's:

(1) Grandparent;

(2) Aunt or uncle by birth, marriage, or prior adoption; or

(3) Stepparent.

§749.3393. What written authorization must I give adoptive parents at the time of placement?

Subchapter Q, Adoption Services: Children

Division 5, Required Information

January 2007

(a) You must provide:

(1) Written authorization to care for the child [Medium];

(2) Written information about the legal status, including if the parental rights to the child have not been terminated [Medium]; and

(3) Written consent for the medical care of the child at the time of the child's placement in the home, if available. [High]

(b) You must file a copy of the signed authorizations and consent forms in the child's record and in the adoptive home record. [Medium]

§749.3395. What information must I provide the adoptive parents prior to or at the time of adoptive placement?

Subchapter Q, Adoption Services: Children

Division 5, Required Information

September 2022

(a) The agency must discuss information about the child and his birth parents with the prospective adoptive parents. [Medium]

(b) According to the Texas Family Code §162.0062, you must inform the prospective adoptive parents of their right to examine the records and other information relating to the history of the child, including the Health, Social, Educational, and Genetic History (HSEGH) report and the child's health history within the HESGH, if you are required to do a HSEGH for the adoption. [Medium]

(c) Any records or other information examined by the prospective adoptive parents or any written information provided to the prospective adoptive parents must be edited to protect any confidential information. [Medium-Low]

(d) You must also provide the prospective adoptive parents with [Medium]:

(1) Research, which may be suggested reading materials and/or websites, on how any known health issue that the child has and/or any trauma the child has experienced (i.e. abuse or neglect) may impact child development and the family's ability to maintain permanency;

(2) Information about the Department of Family and Protective Services (DFPS) adoption assistance programs, if the family may be eligible for such assistance;

(3) Information about community services and other resources available to support a parent who adopts a child, including community services and other resources for a child who has suicidal thoughts or attempts suicide; and

(4) The options available to the adoptive parent if the parent is unable to care for the adopted child, including working with the parent's post adopt provider about the possibility of postadoption substitute care services or working with the child placing agency that placed the child for adoption regarding any additional services. You should also inform the adoptive parents that the Texas Family Code, §162.026 makes it illegal to informally transfer the custody of an adopted child to a person, unless the person is a relative or stepparent of the child or an adult who has a significant long-standing relationship with the child, or the transfer of custody is a formal transfer of custody of the child through a court.

Technical Assistance
• Regarding paragraph (d)(2), information about the DFPS adoption assistance programs can be found on the DFPS website Adoption Assistance page; and • Regarding paragraph (d)(4), postadoption substitute care services are provided by DFPS under limited circumstances, including that the services are only available to residents of Texas that have adopted a child directly from DFPS custody.

Division 6, Post-Placement Supervision

§749.3421. What are my responsibilities for the child during the post-placement period?

Subchapter Q, Adoption Services: Children

Division 6, Post-Placement Supervision

January 2007

During the post-placement period, you must:

(1) Ensure the adoptive placement continues to meet the child's needs [Medium-High];

(2) Maintain responsibility for the child until the court signs the adoption decree [Medium]; and

(3) Make every effort to see that the adoption is consummated as stipulated within the written agreement, or renegotiate another time frame for when the adoption will be consummated. [Medium-Low]

§749.3423. What responsibility do I have to offer counseling services to the adoptive family?

Subchapter Q, Adoption Services: Children

Division 6, Post-Placement Supervision

September 2022

(a) To reduce the risk of adoptive placement breakdown, you must offer counseling services to the adoptive family. [Medium-High]

(b) Counseling services may be provided by your agency or by an outside counseling resource.

(c) The counseling services must provide mental health resources for the child, if applicable, the adoptive parents, and other children in the care of your agency that are placed in the adoptive home, including [Medium]:

(1) Opportunities to debrief to process thoughts and feelings related to a suicide attempt or suicide death;

(2) Referrals to community services and other resources for a child who has suicidal thoughts or attempted suicide; and

(3) Referrals to grief counseling and suicide survivor support groups.

(d) You must ensure that the adoptive family is aware that counseling is available. [Medium-High]

§749.3425. What are the requirements for post-placement contacts with the adoptive family and child?

Subchapter Q, Adoption Services: Children

Division 6, Post-Placement Supervision

September 2010

(a) You must have face-to-face contacts with the child and adoptive parents, as follows:

If the child:	Then you must have:
(1) Is under the age of two years old and does not need treatment services:	A minimum of five face-to-face contacts with the child and the adoptive parents within the first six months of placement [Medium-High]: (A) Two of the contacts must be face-to-face with the entire prospective adoptive family [Medium-High]; and (B) At least one of the two face-to-face contacts noted above must be in the adoptive home. [Medium-High]
(2) Needs treatment services or is two years old or older:	Monthly face-to-face contacts with the adoptive family during the first six months, two of these contacts must be in the adoptive home with all members of the adoptive family. [Medium-High]

(b) Contacts not in the home must allow you enough privacy to counsel with the adoptive family and evaluate the placement. [Medium]

(c) After the first six months of placement, you must have at least quarterly face-to-face contacts in the adoptive home with the entire adoptive family until the adoption decree is entered. [Medium-High]

(d) Contacts must be documented by child placement staff. [Medium]

(e) You may contract with another licensed child-placing agency to make these contacts as long as:

(1) The person making the contacts meets the minimum qualifications for a child placement staff per §749.673 of this title (relating to What are the qualifications that an employee must have to perform child placement activities?) [Medium];

(2) The agency submits the required documentation to you [Medium];

(3) Your child placement management staff reviews and approves the documentation [Medium]; and

(4) You maintain the documentation in the child's record. [Medium]

§749.3427. What must I do if the adoption is not completed within the time frame stipulated in the written agreement?

Subchapter Q, Adoption Services: Children

Division 6, Post-Placement Supervision

January 2007

(a) The following individuals must assess why the adoption was not completed within the time frame stipulated in the written agreement:

(1) Staff who supervise the adoption placement [Medium];

(2) Any other professional staff involved with the family [Medium]; and

(3) The adoptive family. [Medium-Low]

(b) You must establish a plan for finalizing the adoption and for supervising the placement. The plan must be based upon the assessment. The plan for supervising the placement must require at least quarterly face-to-face contacts in the adoptive home with both parents present. [Medium]

(c) You must document the assessment and the plan. [Medium-Low]

(d) Child placement management staff must:

(1) Review the documentation and plan [Medium-Low]; and

(2) Determine whether the assessment and plan will meet the needs of the child for safety, care, and permanency. [Medium]

(e) The adoptive placement must be re-evaluated if consummation of the adoption has not been completed within one year. [Medium]

§749.3431. What must I do if I determine that the placement cannot be completed and/or is not in the best interest of the child and/or the adoptive family?

Subchapter Q, Adoption Services: Children

Division 6, Post-Placement Supervision

January 2007

(a) You must remove the child from the adoptive family if the placement and adoption is not in the best interest of the child and/or the adoptive family. [High]

(b) The decision to remove the child must be reviewed and approved by child placement management staff prior to the removal. [Medium]

(c) If the child comes back into your care, you must document the following in the child's record:

(1) The circumstances necessitating the removal from the adoptive family [Medium]; and

(2) An update of the child's service plan. [Medium-Low]

Division 7, Post-Adoption Services

§749.3461. Must I offer counseling services after the adoption is consummated?

Subchapter Q, Adoption Services: Children

Division 7, Post-Adoption Services

January 2007

(a) You must offer counseling services to the adoptive child and adoptive parents after the adoption is consummated. [Medium]

(b) You may offer these services through your agency or an outside counseling resource.

§749.3463. If supplemental information concerning birth parents subsequently comes to my attention, what are my responsibilities?

Subchapter Q, Adoption Services: Children

Division 7, Post-Adoption Services

January 2007

(a) You must make reasonable efforts to inform the adoptive parents and/or an adult adoptee, in writing, about supplemental medical, psychological, or psychiatric information, including developing genetic conditions, terminal illnesses, or death of a birth parent, that subsequently comes to your attention. You must document the information provided, the date and method of providing the information, and the names of the persons receiving the information. [Low]

(b) When an adoptive placement is made, you must tell older adopted children and adoptive parents that you will communicate the information in subsection (a) of this section to them provided that they keep you informed of their whereabouts. You must document when you gave this information to the child and to adoptive parents. [Low]

(c) When you receive information on the identified topic, you must, at a minimum:

(1) Write the adoptive parents and/or adult adoptee at the last known address [Low];

(2) If the letter is returned to you as undeliverable, check the telephone directory or Internet search for the city where the adoptive parents and/or adult adoptee were last known to be living [Low];

(3) If this action does not locate the adoptive parents and/or adult adoptee, check the record for contact information on family members or others who may have knowledge of the adoptive parents and/or adult adoptee's whereabouts and attempt to contact these persons and obtain forwarding information [Low]; and

(4) Document your attempts to locate the adoptive parents and/or adult adoptee. [Low]

§749.3465. What must I do when an adoptee requests his adoption record?

Subchapter Q, Adoption Services: Children

Division 7, Post-Adoption Services

January 2007

(a) According to Texas Family Code §162.006, you must provide to the adult adoptee a copy of the adoption report that has been edited to protect any confidential information. [Low]

(b) If the adoptee is younger than 18 years of age, the request for the information must come from or must include the written consent of the adoptee's adoptive parents or managing conservator. [Low]

Subchapter R, Adoption Services: Birth Parents

Division 1, Birth Parent Preparation

§749.3501. What information must I provide to birth parents who contact me for services?

Subchapter R, Adoption Services: Birth Parents

Division 1, Birth Parent Preparation

January 2007

(a) Upon establishing a formal relationship with birth parents, you must provide the following information to them in writing:

(1) Alternatives and options to adoption that your policies do not oppose [Medium-Low];

(2) The services you provide, including counseling and post-adoption services [Medium-Low];

(3) Adoption registries [Medium-Low];

(4) Legal rights and responsibilities of both birth parents in regard to [Medium-Low]:

(A) Relinquishment of parental rights [Medium-Low];

(B) Waivers of Interest [Medium-Low];

(C) Affidavit of status [Medium-Low];

(D) Termination of parental rights [Medium-Low];

(E) Designating the father of a child as "unknown" based on legal requirements [Medium-Low]; and

(F) Paternity registry requirements [Medium-Low]; and

(5) Any assistance available through the agency to meet housing, medical, and prenatal care and other needs [Medium-Low];

(b) You must provide and discuss this information to birth parents in a language that they understand [Medium-Low]; and

(c) You must document the:

(1) Date the information was shared [Low]; and

(2) Agency staff that shared the information. [Low]

§749.3503. What are the requirements for contacting birth parents that become my clients?

Subchapter R, Adoption Services: Birth Parents

Division 1, Birth Parent Preparation

April 2022

(a) Child placement staff must have at least:

(1) Two face-to-face contacts with birth parents prior to the relinquishment of parental rights over a period of two or more days. At least one interview must be held after the birth of the child. If face-to-face contact with the birth father is not feasible, you must document justification for contacts that are not face-to-face [Medium-Low]; and

(2) Except in cases of relinquishment or involuntary termination of parental rights, quarterly contact with birth parents prior to placement of the child. [Medium-Low]

(b) If the contacts required in subsection (a) of this section cannot be made, you must document that you have exercised reasonable efforts to locate the absent parent, and you must document why the contacts could not be made. Reasonable efforts to locate an absent parent are not required for an alleged biological father whose rights will be terminated under Texas Family Code §161.002(c-1). [Medium-Low]

(c) Contacts must assist birth parents to:

(1) Understand their feelings regarding relinquishing the child for adoption [Medium-Low];

(2) Understand the long-range implications of relinquishing the child for adoption [Medium-Low];

(3) Freely make a choice regarding relinquishing the child to the agency for adoption. The birth parents must not be pressured to make a decision to place their child for adoption [Medium-Low];

(4) Express their expectations for adoptive placement, if placement is chosen, and the degree and type of involvement, if any, they desire with adoptive family [Medium-Low]; and

(5) Provide the required Health, Social, Educational, and Genetic History Report (HSEGH) information, if applicable. [Medium-Low]

(d) The following topics must be discussed with the birth parents:

(1) Preparation for childbirth, when applicable [Medium];

(2) Relinquishment or waiver of parental rights [Medium-Low];

(3) Termination of parental rights [Medium-Low]; and

(4) Counseling in regard to separation, loss, and grief issues. [Medium]

(e) Staff providing the service must document all contacts with birth parents. [Medium-Low]

(f) You may contract with another licensed child-placing agency to make these contacts as long as:

(1) The person making the contacts meets the minimum qualifications for a child placement staff per §749.673 of this title (relating to What are the qualifications that an employee must have to perform child placement activities?) [Medium];

(2) The agency submits the required documentation to you [Medium];

(3) Your child placement management staff reviews and approves the documentation [Medium]; and

(4) You maintain the documentation in the child's record. [Medium]

Division 2, Termination of Parental Rights

§749.3521. What requirements must I follow regarding termination of parental rights?

Subchapter R, Adoption Services: Birth Parents

Division 2, Termination of Parental Rights

January 2007

You must comply with all state and federal laws regarding termination of parental rights, including Chapter 161 of the Texas Family Code (relating to Termination of the Parent-child Relationship). [Medium]

§749.3523. What specific information must I obtain from birth parents that voluntarily relinquish their parental rights?

Subchapter R, Adoption Services: Birth Parents

Division 2, Termination of Parental Rights

January 2007

A parent who signs an affidavit of voluntary relinquishment of parental rights regarding a biological child must also prepare a medical history report form that we issue as required by §161.1031 of the Texas Family Code. If the child is [Medium-High]:

(1) In the managing conservatorship of Child Protective Services, DFPS must maintain the form and make it available to persons with whom the child is placed [Medium-High]; and

(2) Placed for private adoption through a licensed child-placing agency, that agency must maintain the form. [Medium-High]

Division 3, Post Adoption Services

§749.3571. Must I offer counseling services to birth parents after the adoption of their child is consummated?

Subchapter R, Adoption Services: Birth Parents

Division 3, Post Adoption Services

January 2007

(a) Yes. You must offer counseling services to birth parents after the consummation of the adoption. [Low]

(b) You must ensure that birth parents are notified in writing that counseling services are available through the agency on an ongoing basis. [Low]

(c) You may provide counseling services directly or through referrals to counseling resources outside your agency.

§749.3573. What are the requirements to provide information about the child to birth parents after the adoption is consummated?

Subchapter R, Adoption Services: Birth Parents

Division 3, Post Adoption Services

January 2007

(a) You must make reasonable efforts to inform birth parents, in writing, about developing genetic conditions, terminal illness, or death of the biological child that comes to your attention. [Low]

(b) At the time the adoption placement is made, you must tell birth parents that you will communicate the information in subsection (a) of this section to them provided that they keep you informed of their whereabouts. [Low]

(c) When you receive information on the identified topics, you must document your attempts to locate the birth parents, the information provided, the date and method of providing the information, and the names of the persons receiving the information. [Low]

Subchapter S, Adoption Services: Adoptive Parents

Division 1, Adoptive Applicant Preparation

§749.3601. What information must I provide to persons inquiring about agency adoption services?

Subchapter S, Adoption Services: Adoptive Parents

Division 1, Adoptive Applicant Preparation

January 2007

Prior to establishing any formal relationship with prospective adoptive applicants, you must provide written information regarding:

(1) The services you provide, including counseling and post-adoptive services [Low];

(2) Fee policies and payment procedures [Low];

(3) Agency requirements and procedures [Low];

(4) Legal requirements for adoption, including their right to have independent legal counsel for legal consummation. You may require that the legal counsel selected by the applicants be experienced in adoptions. If the attorney selected by the applicants is not experienced in adoptions, you may require the adoptive applicants to have an additional, experienced attorney handle the adoption requirements while allowing oversight by the applicants' choice of attorney [Low]; and

(5) Adoption registries. [Low]

Division 2, Adoptive Home Screening

Technical Assistance
Best practices for adoptive home screening interviews: • Space interviews so that members of the prospective adoptive family are able to process and provide information that contributes to the assessment of the family. • If the home is not providing foster care to the child prior to the consummation of the adoption, conduct the individual interviews with either prospective adoptive parent and the joint interview with both parents on the same day. • Avoid conducting the individual interviews with children and other family members living in the home and the joint interview with all family members on the same day.

§749.3621. What is an adoptive home screening?

Subchapter S, Adoption Services: Adoptive Parents

Division 2, Adoptive Home Screening

September 2010

An adoptive home screening contains documentation of the following:

(1) Interviews with adoption applicants, their families, and collateral contacts as necessary [Medium];

(2) Information obtained through review of documents, reports, and inspections [Medium];

(3) Assessment of the information obtained to determine whether applicants meet the requirements for approval as adoptive families [Medium];

(4) Evaluation of the information obtained in order to make recommendations about the family's capacity for adoption, including the age, number, sex, and special needs of the children the family has the capacity to parent [Medium];

(5) Assessment of basic care and safety issues, including safety of the environment of the adoptive home [Medium]; and

(6) Review and approval by child placement management staff, including the ages and gender(s) of the children for whom the home is approved, the special needs of the children for whom the home is approved, and the approved capacity of the home. [Medium]

§749.3623. What information must I obtain for the adoptive home screening?

Subchapter S, Adoption Services: Adoptive Parents

Division 2, Adoptive Home Screening

September 2010

You must obtain, document, and assess the following information about a prospective adoptive home:

Required Information	Description of Discussion, Assessment, and Documentation Requirements
(1) The age of the adoptive applicants.	All adoptive applicants must be at least 21 years or older. You must include documentation verifying their age. [Medium]
(2) The marital status of the adoptive applicants including any previous marriages.	If the adoptive applicants are married, you must review and document the marriage license or declaration of marriage record. You must document information about any previous marriages, divorces, or deaths of former spouses. [Low]
(3) A history of the adoptive applicants' residence and their citizenship status.	You must document the: (A) Length of time spent at each residence for the past 10 years (street address, city, state) [Low]; and (B) Citizenship of the adoptive applicants. [Low]
(4) The financial status of the adoptive applicants.	Adoptive applicants must be able to meet the child's basic material needs. You must include the family's ability to support a child, employment history, income, expenses, and ability to manage money. You must verify income and medical insurance coverage plans for the child. [Medium-High]

Required Information	Description of Discussion, Assessment, and Documentation Requirements
(5) The results of the criminal history and central registry background checks conducted on the adoptive applicants and any non-client person 14 years of age or older who regularly or frequently stays or works in the home.	Persons applying to adopt children through a child-placing agency, and any non-client person 14 years of age or older who will regularly or frequently be staying or be present at the home while children are being provided care, must obtain a criminal history and central registry background check (See Chapter 745, Subchapter F, of this title (relating to Background Checks)). The results of those checks must be documented in the adoptive home record and the home study. [High]
(6) Health status of the adoptive applicants.	Document information about the physical, mental, and emotional status (including substance abuse history) of all persons living in the home in relation to the family's ability to adopt a child and to assume parenting responsibilities. You must observe these persons for any indication of problems and follow up, where indicated, with a professional evaluation. Document the information obtained through your observations or through a physician's statement. Consideration must be given to the health and age of the adoptive applicants. There must be a plan in place to ensure the child will be raised in a stable and consistent environment to adulthood. [High]
(7) Any disabilities of the adoptive applicants.	A person must not be prohibited from adopting a child solely based on a disability. You must evaluate individuals who are disabled in relation to their adjustment to the disability and any limits the disability imposes on the adoptive applicants' ability to care for a child. This evaluation must be documented in the home study. [Medium-High]
(8) The adoptive applicants' motivation for adoption.	Discuss and assess the adoptive applicants' motivation for adoption. You must assess the applicants' motivation and its effect on their ability to accept and parent an adopted child. [Medium-High]

Required Information	Description of Discussion, Assessment, and Documentation Requirements
(9) The fertility of the adoptive applicants.	Discuss and assess information about the couple's fertility. The applicants' fertility is important only in relation to unresolved feelings about their infertility and their ability to accept and parent a child not born to them. [Medium]
(10) The quality of the adoptive applicants' marital and family relationships.	Describe the quality of marital and family relationships in relation to the family's ability to adopt and parent a child. You must assess the stability of a couple's relationship, the strengths and problems of the relationship, and how those issues will relate to an adopted child. You must assess the quality of the relationships between the prospective adoptive parents and their biological children, living in or out of the home, strengths and problems of those relationships, and how those issues will relate to an adopted child. [Medium]
(11) The adoptive applicants' feelings about their childhood and parents.	Discuss and assess adoptive applicants' feelings about their childhoods and parents, including any history of abuse or neglect and their resolution of the experiences. [Medium]
(12) The adoptive applicants' attitude about an adopted child's religion.	Evaluate adoptive applicants on [Medium]: (A) Their willingness to respect and encourage a child's religious affiliation, if any [Medium]; (B) Their willingness to provide a child opportunity for religious and spiritual development, if desired [Medium]; and (C) The health protection they plan to give a child if their religious beliefs prohibit certain medical treatment. [Medium-High]

Required Information	Description of Discussion, Assessment, and Documentation Requirements
(13) The adoptive applicants' values, feelings, and practices in regard to child care and discipline.	Discuss and assess the applicants' knowledge of child development and their child-care experience. Discuss and assess the ways the applicants were disciplined as children and their reactions to the discipline they received. Discuss and assess the prospective adoptive parents' discipline styles, techniques, and their ability to recognize and respect differences in children and use discipline methods that suit the individual child. If their current discipline methods are different than those that you approve, discuss and assess how they would change their child care practices to conform with your approved methods. [Medium-High]
(14) The adoptive applicants' sensitivity to and feelings about children who may have been subjected to abuse and neglect if the agency may place such children with the adoptive parents.	Discuss and assess the adoptive applicants' understanding of the dynamics of child abuse and neglect. Discuss and assess their understanding of how these issues and experiences affect them, their families, and the children they may adopt. Assess the adoptive family applicants' ability to help children who have been abused or neglected. If the adoptive applicants experienced abuse or neglect as a child, assess the handling of those experiences and assess the impact of those experiences on the applicant's ability to help children deal with their own experiences. Evaluate the availability of family and community resources to meet the needs of the children adopted by the family. [Medium]
(15) The adoptive applicants' sensitivity to, and feelings for children's experiences of separation from, and the loss of, their biological families.	Discuss and assess the adoptive applicants' understanding of the dynamics of separation and loss and the effects of these experiences on children. Discuss and assess their personal experiences with separation and loss and their processing of those experiences. Assess the applicants' acceptance of the process of grief and loss for children and assess their ability to help children through the grieving process. [Medium]

Required Information	Description of Discussion, Assessment, and Documentation Requirements
(16) The adoptive applicants' sensitivity to, and feelings about, a child's biological family.	Discuss the adoptive applicants' feelings about the child's parents, including those parents who abused or neglected the child. Assess their sensitivity and reactions to the birth parents. Discuss and assess their sensitivity to and acceptance of a child's feelings about his parents and assess their ability to help the child deal with those feelings. Discuss and assess the applicants' sensitivity to and acceptance of the child's relationships with his siblings. Discuss and assess their reactions to the possibility of contacts between the child and his biological family in the future. [Medium-Low]
(17) The attitude of other family and household members regarding adoption.	Discuss and assess the attitudes of other family and household members toward the plan of adoption. Discuss and assess their involvement in the care of children, their attitudes toward the children, and their acceptance of the adoption plan. [Medium]
(18) The attitude of the adoptive applicants' extended family regarding adoption.	Discuss the extended family's attitude toward adoption and the involvement the family will have with the adopted children. Discuss and assess their involvement in the care of the children, their attitudes toward adoption, and adopted children. [Medium]
(19) Support systems available to adoptive applicants and adopted children.	Discuss and assess the support systems available to the adoptive family and the support they may receive from these resources. [Medium]
(20) The language(s) spoken by the adoptive applicants.	Document the language(s) spoken by each adoptive applicant. [Medium]
(21) The adoptive applicants' expectations of and plans for adoptive children.	Discuss and assess the prospective adoptive parent's expectations of the child and the flexibility of their expectations in relation to the child's actual needs and abilities. Assess their capacities to recognize and emphasize the strengths and achievements of the child and their capacities to adjust their expectations according to the abilities of the child. [Medium-High]

Required Information	Description of Discussion, Assessment, and Documentation Requirements
(22) Adoptive applicants' ability to work with specific kinds of behaviors and backgrounds.	Discuss and assess the adoptive applicants' ability to work with and/or willingness to accept specific behaviors, backgrounds, special needs and/or disabilities and other characteristics of children. [Medium-High]
(23) Background information from other child-placing agencies.	Request and assess the following background information (if provided) from any child-placing agency that previously conducted a foster screening, adoptive home screening, post placement adoptive report, or home study [Medium-High]: (A) The screening, report, home study, and related documentation [Medium-High]; (B) Documentation of supervisory visits and evaluations [Medium-High]; (C) Regarding a foster home, any record of deficiencies and their resolutions [Medium-High]; and (D) Regarding a foster home, the most current fire and health inspections. [Medium-High]

§749.3624. May I consider a prospective adoptive parent's membership in a military organization as a factor in approving an adoptive home screening?

Subchapter S, Adoption Services: Adoptive Parents

Division 2, Adoptive Home Screening

March 1, 2008

Section 162.0025 of the Texas Family Code prohibits any person conducting an adoptive home study from considering membership in the armed forces of the United States, Texas National Guard, National Guard in another state, or in a reserve component of the armed forces of the United States as a negative factor in determining whether the adoptive parent would be a suitable parent or whether an adoption is in the best interests of the child. [Low]

§749.3625. Whom must I interview when conducting an adoptive home screening?

Subchapter S, Adoption Services: Adoptive Parents

Division 2, Adoptive Home Screening

January 2007

Interviews for an adoptive home screening must include:

(1) At least one individual interview with each prospective adoptive parent [Medium];

(2) At least one individual interview with each child three years or older living in the home either full or part time [Medium-High];

(3) At least one individual interview with any other person living full or part time with the family [Medium-High];

(4) At least one joint interview with the adoptive applicants [Medium-High];

(5) At least one family group interview with family members living in the home [Medium-High]; and

(6) At least one interview, by telephone, in person or by letter, with any minor child 12 years old or older or adult child of the adoptive applicants not living in the home. If you cannot reach an adult child to interview, you must document your reasonable efforts to locate the child. [Medium-High]

Technical Assistance
Individuals who may visit in the adoptive home, such as relatives who spend vacations or holidays, are not considered to be living in the home part time. Examples of persons living in the home part time include: • Children of prospective adoptive parent(s), including children attending college but who are in the home for weekends, holidays, and/or vacations or children who live in other living arrangements (with custodial parents, in boarding schools, etc.) but who are present in the home on weekends, vacations, holidays. • Parents of the adoptive parents who may live in the home for a number of weeks or months each year. • Friends who live with the family while unemployed.

§749.3627. What must I document regarding interviews for an adoptive home screening?

Subchapter S, Adoption Services: Adoptive Parents

Division 2, Adoptive Home Screening

September 2010

You must document all interviews and attempts to complete interviews. The documentation must be a part of the adoptive home record and include [Medium-Low]:

(1) The date and method used to contact each required person [Medium-Low];

(2) The date of each interview [Medium-Low];

(3) Who was present at each interview and their relationship to the adoptive applicants [Medium-Low]; and

(4) A summary of each interview. [Medium-Low]

§749.3629. What are the requirements for visiting the home during an adoptive home screening?

Subchapter S, Adoption Services: Adoptive Parents

Division 2, Adoptive Home Screening

January 2007

(a) Unless the child is already placed in the home for foster care, you must visit the home when all members of the household are present. [Medium-High]

(b) You must document in the record the date, persons present, their relationship to the prospective adoptive family, and observations made during the visit. [Medium-Low]

§749.3631. What are the requirements if adoptive applicants previously adopted a child from another child-placing agency or were previously foster parents for another agency?

Subchapter S, Adoption Services: Adoptive Parents

Division 2, Adoptive Home Screening

January 2007

(a) You must request information related to the parents' experience and performance as foster and/or adoptive parents from the previous agency and any background information regarding the foster home as described in §749.2447(22) of this title (relating to What information must I obtain for the foster home screening?). [Medium]

(b) If provided, you must evaluate the information as part of your screening and placement decisions regarding the home. You must use the information to evaluate the family's ability to work with specific kinds of behaviors and backgrounds. [Medium]

§749.3633. When must I update an adoptive home screening?

Subchapter S, Adoption Services: Adoptive Parents

Division 2, Adoptive Home Screening

September 2010

(a) You must update an adoptive home screening for a family seeking adoptive placement:

(1) Every 12 months [Medium]; and

(2) After a major life change in the adoptive family. [Medium-High]

(b) The update must include:

(1) A review and any required updating of each category of information required for an adoptive home screening [Medium]; and

(2) Documentation of at least one visit to the adoptive home when all household members are present within the 90-day period before the update is approved by the child placement management staff. [Medium-High]

(c) No update is required for adoptive homes that also are providing foster care as a foster home verified by your agency.

§749.3635. What is a "major life change in the adoptive family"?

Subchapter S, Adoption Services: Adoptive Parents

Division 2, Adoptive Home Screening

September 2010

A major life change in the adoptive family includes:

(1) Marriage, divorce, separation, death, birth, adoption, or any other change in household composition; or

(2) A serious health problem that affects the ability of the adoptive parent to care for children.

§749.3637. Must I complete an adoptive home screening update if the prospective adoptive parents plan to adopt another child?

Subchapter S, Adoption Services: Adoptive Parents

Division 2, Adoptive Home Screening

September 2010

Yes. If prospective adoptive parents plan to adopt another child, either in addition to or instead of the child for whom the screening was done, you must complete a written adoptive home screening update. [Medium-High]

Division 3, Basic Care and Safety Requirements

§749.3661. What information must adoptive applicants submit on their home and grounds as a part of their application?

Subchapter S, Adoption Services: Adoptive Parents

Division 3, Basic Care and Safety Requirements

January 2007

(a) Adoptive applicants must submit a sketch of the floor plan of the home showing dimensions and purposes of all rooms in the home. [Medium-Low]

(b) Adoptive applicants must submit a sketch or photo of the outside areas showing areas of the grounds to be used by the child. [Medium-Low]

(c) If the home is providing foster care, you may use the foster care screening information.

(d) You must review the sketches and/or photos to determine:

(1) Whether there is sufficient space to accommodate the members of the household and the adoptive child(ren) [Medium-Low]; and

(2) Any potential safety or health issues. [Medium]

§749.3663. What are the basic safety requirements for the home and grounds?

Subchapter S, Adoption Services: Adoptive Parents

Division 3, Basic Care and Safety Requirements

January 2007

(a) The home must be clean, safe, and free of obvious fire and other hazards. The home must be equipped with smoke detectors. [Medium-High]

(b) Pets must be vaccinated and treated as recommended by a licensed veterinarian. [Medium-High]

(c) If the adoptive home has a swimming pool, wading pool, hot tub, or other bodies of water on the premises, you must discuss safety issues and plans to ensure the safety of the child with the adoptive applicants. [High]

(d) You must discuss and assess basic care and safety issues depending on the age and specific needs of the child or children being considered for placement in the home. When you select a child for placement in the home, you must discuss issues specific to the child including supervision, special health or behavior risks, and general child care needs according to the experience and training needs of the adoptive parents. [High]

Technical Assistance
When you complete an adoption screening, it is a good idea to ask whether there are firearms, explosive materials or projectiles present in the home. If these items are present, review your agency's policies and requirements for storage with the adoptive applicants. Your agency may wish to consider the age, history, emotional maturity, and background of the child placed in the adoptive home in determining the adequacy of the storage of these items. Some precautions your agency may consider include: • Requiring trigger locks or making items inoperable; • Requiring locked storage; • Requiring separate locked storage for weapon and for ammunition; or • Requiring that items stored in display cabinets be made inoperable, stored separately from ammunition, and that cabinets be locked. It is a good idea not to transport children in vehicles with accessible firearms, explosive materials, or projectiles.

Division 4, Pre-Placement Requirements

§749.3691. What contacts must I maintain with adoptive applicants prior to the placement of a child?

Subchapter S, Adoption Services: Adoptive Parents

Division 4, Pre-Placement Requirements

September 2010

(a) After you accept a family as a potential adoptive placement, you must maintain at least quarterly contact with them. [Medium]

(b) You must discuss any changes in the information that you obtain during the adoption screening. [Medium]

(c) In addition to the quarterly contacts, you must provide education and training in regard to the following as deemed appropriate by the child placement staff:

(1) Bonding with adoptive children [Medium];

(2) Parenting issues and concerns [Medium]; and

(3) Children with special needs, if appropriate. [Medium-Low]

(d) You must document each contact and training that was provided in the family's record, indicating the date, type of contact, and content. [Medium-Low]

(e) You may contract with another licensed child-placing agency to make these contacts as long as:

(1) The person making the contacts meets the minimum qualifications for a child placement staff in §749.673 of this title (relating to What are the qualifications that an employee must have to perform child placement activities?) [Medium];

(2) The agency submits the required documentation to you [Medium];

(3) Your child placement management staff reviews and approves the documentation [Medium]; and

(4) You maintain the documentation in the child's record. [Medium]

Division 5, Pre-Adoption Consummation Activities

§749.3721. What are my agency's responsibilities during the pre-adoption supervisory period?

Subchapter S, Adoption Services: Adoptive Parents

Division 5, Pre-Adoption Consummation Activities

January 2007

Your agency must:

(1) Ensure the child's needs are met in the adoptive placement [High];

(2) Maintain responsibility for the child until the court has entered the adoption decree [Medium-High]; and

(3) Offer counseling services to the adoptive family. These services may be provided through referrals outside the agency. [Medium]

§749.3725. If the adoption has not been completed within the stipulated time frame in the written agreement, what actions must my agency take?

Subchapter S, Adoption Services: Adoptive Parents

Division 5, Pre-Adoption Consummation Activities

September 2010

(a) Your agency must make every effort to see that the adoption is consummated as stipulated within the written agreement. [Medium]

(b) You must make an assessment of why the adoption will not be completed according to the time frame in the written agreement in §749.3373(c)(1) of this title (relating to What must my agreement with the adoptive parents include?). The assessment must include [Medium]:

(1) Input from staff who have supervised the adoption placement, professionals who have provided counseling for the family, any other professional staff involved with the family, and the adoptive family [Medium]; and

(2) A plan for finalization of the adoption and for supervision of the placement that is based upon the assessment. [Medium]

(c) The assessment and plan must be documented. Child placement management staff must review the documentation and plan and must determine whether the assessment and plan will meet the needs of the child for safety, care, and permanency. [Medium-Low]

(d) The adoptive placement must be re-evaluated if it has not been completed within one year. [Medium]

§749.3727. What actions must my agency take if there are changes to the adoptive family during the post-placement period?

Subchapter S, Adoption Services: Adoptive Parents

Division 5, Pre-Adoption Consummation Activities

September 2010

Your agency must document in the adoptive home record any changes in the adoptive family that may affect the child and assess the effect of the changes on the child. This includes any major life change in the adoptive family. [Medium]

§749.3729. What must my agency do if the placement cannot be completed and/or is not in the best interests of the child and/or the adoptive family?

Subchapter S, Adoption Services: Adoptive Parents

Division 5, Pre-Adoption Consummation Activities

January 2007

Your agency must remove the child from the adoptive family if the placement and adoption is not in the best interests of the child and/or the adoptive family. The decision to remove the child must be reviewed and approved by child placement management staff prior to the removal. You must document the circumstances necessitating the removal and the child's needs in the child's record. [Medium-High]

Division 6, Post-Placement Adoptive Report

§749.3741. What is a post-placement adoptive report?

Subchapter S, Adoption Services: Adoptive Parents

Division 6, Post-Placement Adoptive Report

September 2010

A post-placement adoptive report is a written evaluation of the assessments and interviews, after the placement of the child, regarding the:

(1) Child;

(2) Prospective adoptive parent(s);

(3) Family of the prospective adoptive parent(s);

(4) Environment of the prospective adoptive parent(s) and their family; and

(5) Adjustment of all individuals to the placement.

§749.3743. Whom must I interview when developing a post-placement adoptive report?

Subchapter S, Adoption Services: Adoptive Parents

Division 6, Post-Placement Adoptive Report

September 2010

(a) Interviews for a post-placement adoptive report may be conducted in one visit and must include:

(1) Individual interviews with each adoptive parent [Medium];

(2) Individual interviews with each child three years or older living in the home and any other person living full or part-time with the family [Medium];

(3) A joint interview with the adoptive parents [Medium]; and

(4) A family group interview with all family members living in the home. [Medium-Low]

(b) These interviews are not required for a post-placement adoptive report when a foster family adopts a foster child who has been placed in that home at least six months.

§749.3745. What must I document regarding interviews for a post-placement adoptive report?

Subchapter S, Adoption Services: Adoptive Parents

Division 6, Post-Placement Adoptive Report

September 2010

You must document in the record all interviews and attempts to interview persons listed in §749.3743 of this title (relating to Whom must I interview when developing a post-placement adoptive report?). The documentation must include the date and method taken to contact each required person, the date of each interview, who was present at each interview, their relationship to the adoptive parents, and a summary of each interview. [Medium-Low]

§749.3747. Is a visit to the home required when developing a post-placement adoptive report?

Subchapter S, Adoption Services: Adoptive Parents

Division 6, Post-Placement Adoptive Report

September 2010

Yes. You must visit the home when all members of the household are present. You must document in the record the date, persons present, their relationship to the adoptive parents, and observations made during the visit. This visit is not required for a post-placement adoptive report when a foster family adopts a foster child who has been placed in that home at least six months. [Medium]

§749.3749. When must I develop a post-placement adoptive report?

Subchapter S, Adoption Services: Adoptive Parents

Division 6, Post-Placement Adoptive Report

September 2010

You must conduct the interview for a post-placement adoptive report after the child has resided with the adoptive parent for at least five months, unless otherwise directed by the court. However, you may start developing the post-placement adoptive report (e.g. the gathering of written information) after the placement of the child. [Medium-High]

§749.3751. What issues should an interview for a post-placement adoptive report address?

Subchapter S, Adoption Services: Adoptive Parents

Division 6, Post-Placement Adoptive Report

September 2010

Each interview should focus on the adjustment of the family and the child following the placement of the child. You must also address any items required by §749.3623 of this title (relating to What information must I obtain for the adoptive home screening?) that changed since the adoptive home screening was approved. [Medium]

§749.3753. What information must the post-placement adoptive report include?

Subchapter S, Adoption Services: Adoptive Parents

Division 6, Post-Placement Adoptive Report

September 2010

(a) It must include the following documented information:

(1) A summary of all assessments and available information about the child who is the subject of a petition for adoption, including [Medium-Low]:

(A) Health history, social history, educational history, genetic and family history, and other information required by the Texas Family Code, §162.005 and §162.007 [Medium-Low];

(B) History of physical, sexual, or emotional abuse experienced by the child [Medium-Low];

(C) History of any previous placements, including the date and reasons for placement [Medium-Low];

(D) The child's understanding of adoptive placement [Medium-Low]; and

(E) The child's legal status [Medium-Low];

(2) A summary of all assessments, interviews, and available information about the adoptive parents including [Medium-Low]:

(A) The adoptive home screening (See §749.3623 of this title (relating to What information must I obtain for the adoptive home screening?)), including the results of the criminal history and central registry background checks [Medium-Low];

(B) The birth parents' expectations for adoptive placement and further involvement and the details of agreements for future contact, if any [Medium-Low];

(C) Individual strengths and weaknesses of the adoptive parents [Medium-Low];

(D) Observations made relative to the family's interactions with each other [Medium];

(E) Interviews conducted, as applicable, in accordance with §749.3743 of this title (relating to Whom must I interview when developing a post-placement adoptive report?) [Medium]; and

(F) A visit to the home conducted in accordance with §749.3747 of this title (relating to Is a visit to the home required when developing a post-placement adoptive report?) [Medium];

(3) An evaluation of the child's present or prospective physical, intellectual, social, and psychological functioning and needs, and whether the environment will meet those needs [Medium-Low];

(4) A summary of the adjustment of the family and child in the home during the post-placement period, if appropriate [Medium];

(5) Sources of information and verification, to the extent possible, of all statements of fact pertinent to the report [Medium-Low];

(6) The basis for your conclusions or recommendations [Medium]; and

(7) The names and the qualifications of all persons involved in the preparation and evaluation of the report. [Medium-Low]

(b) All persons involved in the preparation and evaluation of the report must sign the report. [Medium-Low]

Technical Assistance
You can attach the HSEGH report and/or the adoptive home screening to the post-placement adoptive report to meet the related content requirements for the post-placement adoptive report as long as all required information has been updated and reflects any changes.

Division 7, Counseling Services

§749.3771. Is my agency required to offer counseling services to the adoptive family?

Subchapter S, Adoption Services: Adoptive Parents

Division 7, Counseling Services

September 2010

Yes, you must offer counseling services post-placement and post-adoption. The services may be provided directly or through referrals outside of your agency. [Medium]

Division 8, Subsequent Adoptions

§749.3781. What are the requirements if adoptive parents apply to adopt another child?

Subchapter S, Adoption Services: Adoptive Parents

Division 8, Subsequent Adoptions

September 2010

(a) Before you may place another child into the home, you must update the adoptive home screening. [Medium]

(b) The update must include at least one:

(1) Individual interview with each applicant [Medium];

(2) Individual interview with each child three years or older living in the home either full or part time [Medium];

(3) Individual interview with any other person living full or part time with the family [Medium]; and

(4) Visit to the home while all family members are present. [Medium-High]

(c) You must complete all other requirements for an adoptive placement. [Medium-High]

(d) If a subsequent adoption occurs within one year from a previous adoption, in which all of the required home visits and interviews were conducted, an individual interview with each adoptive parent and a home visit with all household members present will meet the interviewing and home visit requirements.

Subchapter T, Additional Requirements for Child-Placing Agencies That Provide an Assessment Services Program

Division 1, Regulation

§749.3801. Does Licensing regulate all assessment services?

Subchapter T, Additional Requirements for Child-Placing Agencies That Provide an Assessment Services Program

Division 1, Regulation

January 2007

(a) No. This subchapter only regulates child-placing agencies that also provide an assessment services program.

(b) Services provided by other individuals, agencies, and organizations are not subject to regulation under this subchapter.

Division 2, Admission

§749.3831. What are the requirements for approving a child's admission into my assessment services program?

Subchapter T, Additional Requirements for Child-Placing Agencies That Provide an Assessment Services Program

Division 2, Admission

January 2007

(a) The person responsible for the assessment services program must review and approve in writing the determination that your program will be able to provide or obtain all assessment services the child appears to need at intake. [Medium]

(b) The review, determination, and approval must be:

(1) In writing, signed, and dated from the person responsible for the assessment services program [Medium]; and

(2) Completed prior to the admission of the child into your assessment services program. [Medium]

(c) The determination on the appropriateness of the program to meet the child's assessment needs must be filed in the child's record if the child is admitted into your assessment services program. [Medium]

(d) You must document in the child's record whether you are [Medium]:

(1) Only providing assessment services to the child; or

(2) Also providing other services, such as transitional living services.

(e) You must document in the child's record the date of the child's admission into your assessment services program. [Medium]

Division 3, Plan for the Assessment

§749.3861. When must I complete the child's individual plan for the assessment?

Subchapter T, Additional Requirements for Child-Placing Agencies That Provide an Assessment Services Program

Division 3, Plan for the Assessment

January 2007

(a) You must complete the child's individual plan for the assessment within 10 days from the date of the child's admission into the program. [Medium]

(b) You must document the plan in the child's record. [Medium]

§749.3863. When does admission into the assessment services program begin?

Subchapter T, Additional Requirements for Child-Placing Agencies That Provide an Assessment Services Program

Division 3, Plan for the Assessment

January 2007

Admission into the assessment services program begins when [Medium]:

(1) The parent makes the decision to place the child into the assessment services program; and

(2) You decide to accept the child for these services.

§749.3865. What must an individual plan for the assessment include?

Subchapter T, Additional Requirements for Child-Placing Agencies That Provide an Assessment Services Program

Division 3, Plan for the Assessment

January 2007

(a) An individual plan for the assessment must include:

(1) Time frames for providing all assessment services [Medium-Low];

(2) Recommendations for the child's care during the assessment process [Medium];

(3) Any treatment to be provided during the assessment period [High]; and

(4) Current data from the caregiver's evaluation of the child's behavior and level of functioning. [Medium]

(b) The common application is not and must not serve as the individual plan for the assessment. [Medium]

§749.3869. How must my assessment services program collect information from a child's caregivers?

Subchapter T, Additional Requirements for Child-Placing Agencies That Provide an Assessment Services Program Division 3, Plan for the Assessment

January 2007

(a) Your assessment services program must systematically collect information from caregivers throughout the child's participation in the assessment services program. This information includes the caregivers' observations and opinions of the child. [Medium]

(b) You must document this information in the child's record. Your documentation must include your consideration of the caregivers' observations and opinions. [Medium]

§749.3871. When is the plan for the assessment complete?

Subchapter T, Additional Requirements for Child-Placing Agencies That Provide an Assessment Services Program Division 3, Plan for the Assessment

January 2007

(a) The plan for the assessment is complete when it contains the necessary information and the signed approval of the person responsible for the assessment services program or a designated employee who meets the qualifications of a person responsible for the assessment program. [Medium]

(b) The parent must review and be provided a copy of the plan for the assessment. [Medium]

Division 4, Assessment Report

§749.3891. What is an assessment report?

Subchapter T, Additional Requirements for Child-Placing Agencies That Provide an Assessment Services Program Division 4, Assessment Report

January 2007

(a) The assessment report that is the result of the assessment services is a narrative report that pulls together data from:

(1) Professional evaluation reports on the child [Medium]; and

(2) The program's assessment on how the child is managing in the program. [Medium]

(b) The report includes:

(1) Recommendations made in other professional evaluations [Medium]; and

(2) Recommendations based on the program's experiences with and assessment of the child. [High]

(c) The common application is not and must not serve as the assessment report. [Medium]

§749.3893. When must I complete the assessment report?

Subchapter T, Additional Requirements for Child-Placing Agencies That Provide an Assessment Services Program Division 4, Assessment Report

September 2010

(a) The assessment report must be completed rapidly, consistent with good practice, in order to allow for a permanent placement as soon as possible. [Medium]

(b) You must complete the assessment report:

(1) Within 30 days after you admit the child, if the child is younger than five years old [Medium]; or

(2) Within 45 days after you admit the child, if the child is five years old or older. [Medium]

(c) With the approval of the child's parent, you may extend the time frame for completing the report for an additional 15 days. You must document the need for the extension of time in the child's record. [Low]

(d) You must complete the assessment report before a planned discharge of the child from the assessment services program. However, additional assessment services may be conducted subsequent to placement if a quick placement is in the best interest of the child. [Medium]

(e) You must provide a copy of the assessment report to the child's parent as soon as the report is complete. [Low]

§749.3895. What must be included in the written assessment report?

Subchapter T, Additional Requirements for Child-Placing Agencies That Provide an Assessment Services Program Division 4, Assessment Report

January 2007

In addition to the requirements set forth in §749.1133 of this title (relating to What information must an admission assessment include?), a written assessment report must include [Medium-Low]:

(1) Copies and results of the determination of the child's basic health and social and developmental assessment, including [Medium]:

(A) The child's basic health status, as determined under the supervision of a licensed physician [High];

(B) The child's basic social and developmental needs, as determined under the supervision of the person responsible for the assessment services program or a designated employee who meets the qualifications for a person responsible for the assessment program [Medium];

(C) Recommendations for any further assessment services and testing [Medium]; and

(D) An assessment of the child's immediate and extended family in terms of an ongoing relationship with the child [Low];

(2) Copies and results of all evaluations and testing [High];

(3) A summary of the primary caregivers' evaluations of the child's behavior and level of functioning [High];

(4) An assessment of the results and summary in terms of appropriate short- and long-term planning for the child [Medium];

(5) Recommendations for placement [High]; and

(6) A recommended behavior management plan based on the assessment results and the primary caregivers' evaluations of the child's behavior and level of functioning. [High]

§749.3897. Who must review and approve an assessment report?

Subchapter T, Additional Requirements for Child-Placing Agencies That Provide an Assessment Services Program

Division 4, Assessment Report

January 2007

(a) The following people must review the assessment report:

(1) The person responsible for the assessment program or a designated employee who meets the qualifications of a person responsible for the assessment program [High];

(2) The child's primary caregiver [High]; and

(3) The child's parent. [Medium]

(b) The person responsible for the assessment program, or the designated qualified employee, must approve and sign the report. [Medium]

(c) You must file the original, approved and signed assessment report, including any addendums to the report, in the child's record. [Medium]

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 1, Definition and Scope

§749.4001. What does "trafficking victim services" mean when used in this subchapter?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 1, Definition and Scope

December 2014

In this subchapter, trafficking victim services means a specialized type of child-care services designed to treat and support trafficking victims, in addition to basic child care services.

§749.4003. When am I required to meet the additional rules of this subchapter?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 1, Definition and Scope

December 2014

You must meet the additional rules of this subchapter if you provide trafficking victim services to [High]:

(1) 30 or more children; or

(2) More than 50% of the children in your care.

§749.4005. In addition to the rules in this subchapter, what other rules in this chapter apply to a child-placing agency?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 1, Definition and Scope

December 2014

A child-placing agency that is required to comply with this subchapter must comply with all other rules in this chapter that apply to all child-placing agencies, as well as the rules that apply to a child-placing agency that provides treatment services to children with an emotional disorder, unless any such rule is replaced by a rule in this subchapter, as noted in §749.4007 of this title (relating to What rules in this subchapter replace other rules in this chapter?).

§749.4007. What rules in this subchapter replace other rules in this chapter?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 1, Definition and Scope

December 2014

A child-placing agency that is required to comply with the rules in this subchapter is not required to comply with other rules in this chapter if the rule has been replaced, as specified in the following chart:

Topic	A child-placing agency must comply with this rule:	Instead of this rule:
Treatment Director Qualifications	§749.4101 of this title (relating to What qualifications must a treatment director have?)	§749.725 of this title (relating to What qualifications must a treatment director have?)
Pre-service Hourly Training Requirements for Caregivers and Employees	§749.4151 of this title (relating to What are the pre-service hourly training requirements for caregivers and employees?)	§749.863 of this title (relating to What are the pre-service hourly training requirements for caregivers and employees?)

Topic	A child-placing agency must comply with this rule:	Instead of this rule:
Annual Training Requirements for Caregivers and Employees	§749.4155 of this title (relating to What are the annual training requirements for caregivers and employees?)	§749.931 of this title (relating to What are the annual training requirements for caregivers and employees?)
Admission of Young Adults	§749.4265 of this title (relating to May I admit a young adult into care?)	§749.1105 of this title (relating to May I admit a young adult into care?)

Division 2, Policies and Procedures

§749.4051. What additional child-care policies must I develop?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 2, Policies and Procedures

June 2016

You must develop written policies that address how a foster home will:

(1) Provide a variety of engaging activities to help trafficking victims develop their skills and independence and gain a sense of personal identity, including providing life skills training for children 14 years of age or older [Medium-Low];

(2) Tailor education to the child's needs [Medium-Low];

(3) Provide mentoring services [Medium-Low]; and

(4) Prevent and discourage trafficking victims from running away from the foster home. [Medium]

§749.4053. What safety and security policies must I develop?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 2, Policies and Procedures

December 2022

You must develop written policies that address:

(1) The measures you will implement to ensure the safety and security of trafficking victims, caregivers, and employees, including measures that address both interior and exterior security while promoting a comfortable and nurturing environment on the grounds of the foster home [Medium];

(2) Foster parent protocols and procedures for ensuring a safe environment, including how to handle visitors not allowed at the foster home [Medium]; and

(3) Appropriate safeguards with respect to a trafficking victim's access to forms of communication, including telephones, cell phones, computer, internet, mail, and visitors, which may pose a risk of further victimization of the child. [Medium]

§749.4055. What confidentiality policies must I develop?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 2, Policies and Procedures

December 2014

You must develop written policies that address confidentiality, including policies that:

(1) Restrict the disclosure of information, both written and oral, that would identify a child as a trafficking victim, or describe the nature of the victim's trafficking history, other than as needed to serve the victim or comply with other laws [Medium];

(2) Specify to whom and under what circumstances a caregiver, employee, or volunteer may disclose the location of a foster home [Medium]; and

(3) Specify the circumstances under which a visitor may or may not be allowed at the foster home. [Medium]

Division 3, Personnel

§749.4101. What qualifications must a treatment director have?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 3, Personnel

December 2014

A treatment director that provides or oversees treatment services for trafficking victims must [Medium]:

(1) Be a psychiatrist or psychologist;

(2) Have a master's degree in a human services field from an accredited college or university and three years of experience providing treatment services for trafficking victims or children with an emotional disorder, including one year in a residential setting; or

(3) Be a licensed master social worker, a licensed clinical social worker, a licensed professional counselor, or a licensed marriage and family therapist, and have three years of experience providing treatment services for trafficking victims or children with an emotional disorder, including one year in a residential setting.

§749.4103. Are there additional training requirements for volunteers who have contact with children receiving trafficking victim services?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 3, Personnel

December 2014

Each volunteer whose responsibilities include working with trafficking victims must have one hour of training prior to working with the children. The training must include the following components that explain [Medium]:

(1) The child-placing agency's confidentiality policies [Medium]; and

(2) How the effects of trauma impact working with trafficking victims. [Medium]

Division 4, Training

§749.4151. What are the pre-service hourly training requirements for caregivers and employees?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 4, Training

December 2014

(a) Caregivers and certain employees must complete the following training hours before the noted time frame:

Weight	Who is required to receive the training?	What type of pre-service training is required?	How many hours of training are required?	When the training must be completed by?
[Medium]	(1) All caregivers	General pre- service training	8 hours	Before the person can be the only caregiver responsible for a child in care.
[Medium-High]	(2) All caregivers	Pre-service training regarding emergency behavior intervention	16 hours; however, if your child-placing agency prohibits the use of emergency behavior intervention, then only 8 hours of training are needed	At least half of the required hours of training before the person can be the only caregiver responsible for a child in care, and all of the required hours of training within 90 days of being responsible for a child in care.

Weight	Who is required to receive the training?	What type of pre-service training is required?	How many hours of training are required?	When the training must be completed by?
[Medium-High]	(3) All caregivers	Pre-service training regarding complex trauma experienced by trafficking victims	5 hours	At least two of the required hours of training before the person can be the only caregiver responsible for a child in care, and all of the required hours of training within 90 days of being responsible for a child in care.
[Medium]	(4) Child-placing agency administrators, treatment directors, child placement management staff, child placement staff, and full-time professional service providers	Pre-service training regarding emergency behavior intervention	8 hours	All 8 hours of training within 90 days of beginning job duties.
[Medium]	(5) Child-placing agency administrators, treatment directors, child placement management staff, child placement staff, and full-time professional service providers	Pre-service training regarding complex trauma experienced by trafficking victims	5 hours	All 5 hours of training within 90 days of beginning job duties.

(b) You must document the completion of each training requirement in the appropriate personnel record. [Medium-Low]

§749.4153. Must I provide pre-service training to a caregiver or an employee who was previously a caregiver or employee for another operation?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 4, Training

January 2017

(A) A child-placing agency does not have to provide additional general pre-service training or pre-service training regarding emergency behavior intervention to any caregiver or employee who is exempt from this training by §749.867 of this title (relating to Must I provide pre-service training to a caregiver or employee who was previously a caregiver or employee for a residential child-care operation?). In addition, a caregiver or employee (child-placing agency administrator, treatment director, child placement management staff, child placement staff, or full-time professional service provider) does not have to complete the five hours of pre-service training regarding complex trauma experienced by trafficking victims if the caregiver or employee:

(1) During the last 12 months:

(A) Worked in a general residential operation that provides trafficking victim services to 25 or more children, or to 30% or more of the operation's children in care; or

(B) Was a caregiver or employee for or a child-placing agency that provides trafficking victim services to 30 or more children, or 50% or more of the CPA's children in care; and

(2) Has documentation that the caregiver or employee has previously received the five hours of pre-service training.

(B) You must document the exemption factors in the appropriate personnel record. [Medium-Low]

§749.4155. What are the annual training requirements for caregivers and employees?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 4, Training

April 2022

Caregivers and certain employees must complete the following training hours:

Who is required to receive the annual training?	How many hours of annual training and what types of annual training are needed?
(1) All Caregivers	(A) For homes with two foster parents, the foster parents must receive a total of 50 hours of annual training. [Medium] Of these 50 hours: (i) Eight hours for each foster parent must be on training specific to the emergency behavior interventions allowed by your agency [Medium-High]; (ii) Two hours for each foster parent must be on training specific to trauma informed care [Medium-High]; (iii) Four hours for each foster parent must be on training specific to trafficking victims, as further described in §749.4157 of this title (relating to What areas or topics must the four hours of annual training regarding trafficking victims include?) [Medium-High]; and (iv) The remaining 22 hours must be distributed appropriately, and each foster parent must receive some amount of the remaining training. [Medium] (B) For all other caregivers, including homes with one foster parent, 30 hours. [Medium] Of these 30 hours: (i) Eight hours must be on training specific to the emergency behavior interventions allowed by your agency [Medium-High]; (ii) Two hours must be on training specific to trauma informed care [Medium-High]; and (iii) Four hours must be on training specific to trafficking victims, as further described in §749.4157 of this division (relating to What areas or topics must the four hours of training regarding trafficking victims include?). [Medium-High]
(2) Child placement staff with less than one year of child- placing experience	(A) 30 hours for the initial year. [Medium] Of these 30 hours: (i) Two hours must be on training specific to trauma informed care [Medium-High]; and (ii) Four hours must be on training specific to trafficking victims, as further described in §749.4157 of this division. [Medium-High] (B) 20 hours after the initial year. [Medium] Of these 20 hours:

Who is required to receive the annual training?	How many hours of annual training and what types of annual training are needed?
	(i) One hour must be on training specific to trauma informed care [Medium]; and (ii) Four hours must be on training specific to trafficking victims, as further described in §749.4157 of this division. [Medium-High] (C) There are no annual training requirements for emergency behavior interventions. However, if there is a substantial change in techniques, types of intervention, or agency policies regarding emergency behavior intervention, then the staff must be re-trained.
(3) Child placement staff with at least one year of child-placing experience, and child placement management staff	(A) 20 hours. [Medium] Of these 20 hours: (i) One hour must be on training specific to trauma informed care [Medium-High]; and (ii) Four hours must be on training specific to trafficking victims, as further described in §749.4157 of this division. [Medium-High] (B) There are no annual training requirements for emergency behavior interventions. However, if there is a substantial change in techniques, types of intervention, or agency policies regarding emergency behavior intervention, then the staff must be re-trained.
(4) Child-placing agency administrators, executive directors, treatment directors, and full-time professional service providers who hold a relevant professional license	(A) 15 hours. [Medium] (B) Annual training hours used to maintain a person's relevant professional license may be used to complete these hours. (C) There are no annual training requirements for emergency behavior interventions. However, if there is a substantial change in techniques, types of intervention, or agency policies regarding emergency behavior intervention, then the staff must be re-trained.
(5) Executive directors, treatment directors, and full- time professional service providers who do not hold a relevant professional license	(A) 20 hours. [Medium] Of these 20 hours: (i) One hour must be on training specific to trauma informed care [Medium-High]; and (ii) Four hours must be on training specific to trafficking victims, as further described in §749.4157 of this division. [Medium-High]

Who is required to receive the annual training?	How many hours of annual training and what types of annual training are needed?
	(B) There are no annual training requirements for emergency behavior interventions. However, if there is a substantial change in techniques, types of intervention, or agency policies regarding emergency behavior intervention, then the staff must be re-trained.
(6) Child-placing agency administrators, treatment directors, child placement staff, child placement management staff, and full-time professional service providers	At least one hour of annual training must focus on prevention, recognition, and reporting of child abuse and neglect, including [Medium]: (A) Factors indicating a child is at risk for abuse or neglect [Medium]; (B) Warning signs indicating a child may be a victim of abuse or neglect [Medium]; (C) Internal procedures for reporting child abuse or neglect [Medium]; and (D) Community organizations that have training programs available to child- placing agency staff members, children, and parents. [Medium]

§749.4157. What areas or topics must the four hours of training regarding trafficking victims include?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 4, Training

December 2022

The four hours of annual training must include:

(1) One hour of training in preventing compassion fatigue and secondary traumatic stress [Medium]; and

(2) Three hours of training in areas appropriate to the needs of children for whom the caregiver will be providing care, which may include [Medium]:

(A) Typology of trafficking victims;

(B) Manifestations of trauma and practice in trauma informed care;

(C) How trafficking victims are manipulated and controlled;

(D) Making informed decisions and setting boundaries for trafficking victims;

(E) Understanding and avoiding the triggers of trafficking victims;

(F) Creating and maintaining nurturing environments for trafficking victims; and

(G) Identifying and responding to internal and external safety and security risks at a foster home, including the grounds of a foster home (e.g., high flight risk, potential self-harm, harm to others, internal recruitment, unapproved visitors, and intruders).

Division 5, Admission and Service Planning

§749.4251. Are there additional medical requirements when I admit a child for trafficking victim services?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 5, Admission and Service Planning

December 2014

In addition to meeting the requirements under §749.1151 of this title (relating to What are the medical requirements when I admit a child into care?):

(1) You must ensure that a child receiving trafficking victim services is screened within 72 hours of admission to determine whether there is an immediate need for any of the following types of medical services [Medium]:

(A) A medical examination by a health-care professional [Medium]; and

(B) Medical tests for pregnancy and the following infectious diseases [Medium]:

(i) Hepatitis B [Medium];

(ii) Hepatitis C [Medium];

(iii) HIV [Medium];

(iv) Sexually transmitted diseases (STDs) [Medium]; and

(v) Tuberculosis. [Medium]

(2) Each individual screening is not required if:

(A) The child was previously placed in a residential child-care operation regulated by DFPS or a facility operated by the Texas Juvenile Justice Department;

(B) There was a previous screening completed within the last 12 months;

(C) You have documentation of the outcome of the screening that was completed;

(D) The child did not run away from the operation or get discharged from the program since the previous screening; and

(E) There is no clear indication that the child has been injured, victimized, or re-victimized since the previous screening.

(3) If the results of the required screening indicate that there is an immediate need for a medical examination or medical tests, you must obtain the medical examination and/or medical tests within five days. [Medium-High]

§749.4253. Must a child I admit for trafficking victim services have an alcohol and substance abuse screening?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 5, Admission and Service Planning

December 2014

Yes, you must ensure that a child receiving trafficking victim services is screened for alcohol and substance abuse within 72 hours of admission. The screening is not required if [Medium]:

(1) You have documentation of:

(A) A child's alcohol and substance abuse screening that was conducted within the previous 12 months during the child's placement at a residential child-care operation regulated by DFPS or a facility operated by the Texas Juvenile Justice Department; or

(B) A professional assessment that was conducted within the previous 12 months that determined whether alcohol and substance abuse services were needed for the child; and

(2) There is no clear indication that the child has developed an alcohol or substance abuse dependency since the date of the previous screening or assessment.

§749.4255. What must I do if an alcohol and substance abuse screening determines that a child receiving trafficking victim services may need alcohol or substance abuse treatment?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 5, Admission and Service Planning

December 2014

If an alcohol and substance abuse screening determines a child receiving trafficking victim services may need alcohol or substance abuse treatment, you must:

(1) Within 14 days, coordinate and schedule the child for an alcohol and substance abuse professional assessment [Medium-High];

(2) Ensure the professional recommendations are carried out [Medium-High]; and

(3) File documentation of the professional assessment, recommendations, and follow-up in the child's record. [Medium-Low]

§749.4257. What behavioral health assessments are required when I admit a child for trafficking victim services?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 5, Admission and Service Planning

December 2014

(a) Within 30 days of admission, you must ensure that a child receiving trafficking victim services is assessed for the following [Medium]:

(1) Post-Traumatic Stress Disorder (PTSD) [Medium];

(2) Depression [Medium]; and

(3) Anxiety. [Medium]

(b) The results of all assessments must be documented in the child's record. [Medium-Low]

(c) Each individual behavioral health assessment is not required if:

(1) The child was previously placed at a residential child-care operation regulated by DFPS or a facility operated by the Texas Juvenile Justice Department;

(2) There was a previous assessment completed within the last 12 months;

(3) You have documentation of the outcome of the child's assessment; and

(4) There is no clear indication that the child has developed one of these disorders since the previous assessment.

§749.4259. What mental health services are required for a child receiving trafficking victim services?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 5, Admission and Service Planning

June 2016

(a) A specialized professional service provider must [Medium]:

(1) Provide individual counseling to each child receiving trafficking victim services. The counseling must address any issues noted in the behavioral health assessment and whether intervention and additional treatment is needed for sexual assault [Medium];

(2) Provide family counseling, as appropriate [Medium]; and

(3) Assess the frequency and duration of the counseling. [Medium]

(b) You must document the assessment in the child's record. [Medium-Low]

(c) If a child refuses counseling, you must document this refusal in the child's record. [Medium-Low]

(d) For purposes of this rule, a specialized professional service provider means:

(1) A psychiatrist licensed by the Texas State Board of Medical Examiners;

(2) A psychologist licensed by the Texas State Board of Examiners of Psychologists;

(3) A master's level social worker or higher licensed by the Texas State Board of Social Work Examiners;

(4) A professional counselor licensed by the Texas State Board of Examiners and Professional Counselors;

(5) A marriage and family therapist licensed by the Texas State Board of Examiners of Marriage and Family Therapists; or

(6) A master's level or higher nurse licensed as an Advanced Practice Registered Nurse by the Texas Board of Nursing and board certified in Psychiatric/Mental Health.

§749.4261. Are there additional requirements for a preliminary service plan when I admit a child for trafficking victim services?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 5, Admission and Service Planning

December 2014

In addition to the requirements listed in §749.1301 of this title (relating to What are the requirements for a preliminary service plan?), the preliminary service plan for a child receiving trafficking victim services must include a description of the child's immediate:

(1) Safety needs [Medium]; and

(2) Behavioral health and treatment care needs. [Medium]

§749.4263. What additional items must be included in a child's initial service plan?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 5, Admission and Service Planning

June 2016

(a) In addition to the requirements and items noted in §749.1309 of this title (relating to What must a child's initial service plan include?), the initial service plan for a child receiving trafficking victim services must include:

(1) The plans to obtain alcohol treatment, substance abuse treatment, or both, for children who require it [Medium];

(2) Updated plans for behavioral health treatment, including intervention and treatment services for sexual assault, for children who require it [Medium]; and

(3) A description of any legal services required for the child and how you will assist the child in meeting those needs. [Medium]

(b) You must document all professional consultations, examinations, recommendations, and treatment in the child's record. [Medium-Low]

§749.4265. May I admit a young adult into care?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 5, Admission and Service Planning

December 2014

(a) You may admit a young adult into your transitional living program.

(b) For other programs and services for trafficking victims, you may admit a young adult into your care if the young adult is determined to be a trafficking victim as stated in §749.61(2)(E) of this title (relating to What types of services does Licensing regulate?) and [Low]:

(1) Is placed at your child-placing agency directly after being discharged from another residential child-care operation regulated by DFPS or a facility operated by the Texas Juvenile Justice Department; or

(2) Is placed at your child-placing agency within 12 months after being discharged from another residential child-care operation regulated by DFPS or a facility operated by the Texas Juvenile Justice Department.

(c) A young adult may remain in your care until the young adult's 23rd birthday. [Low]

§749.4267. May an adult in care share a bedroom with a child in care receiving trafficking victim services?

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services

Division 5, Admission and Service Planning

April 2022

(a) In addition to the requirements listed in §749.3025 of this chapter (relating to May an adult in care share a bedroom with a child in care?), you must re-assess the behaviors, maturity level, and relationships of each resident to determine whether there are risks to either the child in care or adult in care anytime a resident:

(1) Runs away from the foster home and returns to care [Medium-Low]; or

(2) Is discharged from your program and returns to care. [Medium-Low]

(b) The re-assessment must be documented and dated in the child's record. [Medium-Low]

Subchapter W, Kinship Foster Homes

Division 1, Definitions and Scope

§749.4401. Definitions for Subchapter W.

Subchapter W, Kinship Foster Homes

Division 1, Definitions and Scope

November 2025

These terms have the following meanings in this subchapter.

(1) Affinity--Related by marriage, as set forth in Texas Government Code §573.024.

(2) Consanguinity--Two individuals are related to each other by consanguinity if one is a descendant of the other, or they share a common ancestor. An adopted child is related by consanguinity for this purpose. Consanguinity is defined in Texas Government Code §573.022.

(3) Kinship caregiver--A kinship caregiver:

(A) Is a person counted in the child/caregiver ratio for kinship foster care services, including employees, kinship foster parents, contract service providers, and volunteers whose duties include direct care, supervision, guidance, and protection of a kinship foster child, including any person who is solely responsible for a kinship foster child; a child placement staff taking a kinship foster child on an appointment or doctor's visit is an example of a kinship caregiver; and

(B) Does not include a babysitter, an overnight care provider, or a respite child-care provider unless the person is:

(i) A verified kinship foster parent;

(ii) An agency employee;

(iii) A contract service provider; or

(iv) A volunteer.

(4) Kinship foster child--A child in the care of a kinship foster home who:

(A) Is related to the kinship foster parents by consanguinity or affinity; or

(B) Has, or whose family has a longstanding and significant relationship with the kinship foster parent.

(5) Kinship foster home--A foster family home that has a kinship foster parent or parents.

(6) Kinship foster home verification--A verification for a kinship foster home. A kinship foster home must meet certain requirements for a non-expiring foster home verification, as provided in this subchapter, and may only care for kinship foster children.

(7) Kinship foster parent--A foster parent who:

(A) Is related to a foster child by consanguinity or affinity;

(B) Has a longstanding and significant relationship with a foster child or the child's family before the child is placed; or

(C) Is the spouse of a foster parent who has a longstanding and significant relationship with the foster child or the foster child's family.

§749.4403. Scope.

Subchapter W, Kinship Foster Homes

Division 1, Definitions and Scope

November 2025

(a) A child-placing agency (CPA) must comply with the rules in the following subchapters of this chapter, as applicable, before issuing a kinship foster home verification and while the kinship foster home verification is in effect:

(1) Subchapter A (relating to Purpose and Scope);

(2) Subchapter B (relating to Definitions and Services);

(3) Subchapter C (relating to Organization and Administration);

(4) Subchapter D (relating to Reports and Record Keeping);

(5) Subchapter E (relating to Agency Staff and Caregivers);

(6) Subchapter G (relating to Children's Rights);

(7) Subchapter I (relating to Foster Care Services: Service Planning, Discharge);

(8) Subchapter L (relating to Foster Care Services: Emergency Behavior Intervention);

(9) Subchapter N (relating to Foster Homes: Management and Evaluation); and

(10) Subchapter P (relating to Foster-Adoptive Homes and Legal Risk Placements).

(b) For the regulation and ongoing monitoring of a kinship foster home, the CPA must comply with the divisions of this subchapter as noted in the following chart.

Figure: 26 TAC §749.4403(b)

Topic	Follow this Division in Subchapter W
Training and Professional Development	Division 2, Pre-Verification and Ongoing Training Requirements
Admission and Placement	Division 3, Admission and Placement
Medical and Dental Care	Division 4, Medical and Dental Requirements
Daily Care, Problem Management	Division 5, Daily Care, Education, and Discipline
Screenings and Verifications	Division 6, Screenings and Verifications
Health and Safety Requirements, Environment, Space, and Equipment	Division 7, Health and Safety Requirements, Environment, Space, and Equipment

(c) A foster family home that also provides care to a kinship foster child may follow the rules in this subchapter relating to the direct care of kinship foster children. However, the home must:

(1) Be verified as a foster family home; and

(2) Follow all other applicable rules in this chapter for the direct care of non-kinship foster children.

Division 2, Pre-Verification and Ongoing Training Requirements

§749.4421. Documentation of Required Trainings.

Subchapter W, Kinship Foster Homes

Division 2, Pre-Verification and Ongoing Training Requirements

November 2025

(a) A child-placing agency (CPA) must document completion of all required training, including any training certificates and signed agreements reviewed during pre-verification training, in the appropriate kinship foster home record. [Medium-High]

(b) Certificates for pediatric first aid and pediatric cardiopulmonary resuscitation must have an expiration date, and the training documented on the certificate must be renewed prior to the expiration date. [Medium-High]

(c) If the CPA determines that a kinship foster home requires additional training to address areas of non-compliance identified during the CPA's annual evaluation of the kinship foster home, the CPA must document [Medium-High]:

(1) The additional training topics covered;

(2) The curriculum used for each of the kinship caregiver's additional training; and

(3) How the CPA determined which additional training topics were appropriate

§749.4423. Pre-Verification Training Requirements.

Subchapter W, Kinship Foster Homes

Division 2, Pre-Verification and Ongoing Training Requirements

November 2025

Prior to a child-placing agency (CPA) verifying a kinship foster home, each kinship caregiver must have pre-verification training that includes [High]:

(1) An overview of the relevant and applicable rules of this chapter;

(2) The CPA's philosophy, organizational structure, and policies, as well as a description of services and programs the CPA offers;

(3) A review of the reasonable and prudent parent standard, including how the kinship caregivers will use the standard to ensure safety in the kinship foster home;

(4) A review of the agreements between the CPA and kinship foster parents while the verification is in effect; and

(5) A review of the CCR Statement of Foster Parent and Child-Placing Agency Rights and Responsibilities, Form 2907, or a form created by the CPA with the same information.

§749.4425. Pediatric First Aid and Pediatric Cardiopulmonary Resuscitation (CPR) Requirements.

Subchapter W, Kinship Foster Homes

Division 2, Pre-Verification and Ongoing Training Requirements

November 2025

(a) One kinship foster parent must be certified in pediatric first aid and pediatric CPR before a child-placing agency (CPA) issues the kinship foster home verification. Other kinship caregivers, including a second kinship foster parent, must be certified in pediatric first aid and CPR within 90 days after the CPA verifies the home. [High]

(b) Pediatric first aid must include training related to rescue breathing and choking. [High]

(c) Pediatric CPR training must adhere to guidelines for CPR established by the American Heart Association. [High]

§749.4427. General Training Requirements.

Subchapter W, Kinship Foster Homes

Division 2, Pre-Verification and Ongoing Training Requirements

November 2025

A kinship caregiver must complete the following applicable types of general training within the noted timeframes.

Figure: 26 TAC §749.4427

What type of training is required?	Which kinship caregiver must receive the training?	How many hours of training are required?	When must the kinship caregiver complete the training?	What must the training curriculum include?
(1) General Caregiver Training. [High]	(A) All kinship caregivers.	(B) 4 hours.	(C) Within 60 days after the child-placing agency (CPA) verifies the home.	(D)(i) Topics appropriate to the needs of children for whom the kinship caregiver will be providing care; (D)(ii) Trauma informed care; (D)(iii) Measures to prevent, recognize, and report suspected occurrences of child abuse (including sexual abuse); (D)(iv) Procedures to follow in emergencies, such as weather-related emergencies, volatile persons, and severe injury or illness of a child or adult; and (D)(v) Preventing the spread of communicable diseases.
(2) Emergency Behavior Intervention. [High]	(A) All kinship caregivers.	(B) At least 6 hours.	(C) Within 60 days after the CPA verifies the home.	(D) The CPA must determine the appropriate curriculum.

What type of training is required?	Which kinship caregiver must receive the training?	How many hours of training are required?	When must the kinship caregiver complete the training?	What must the training curriculum include?
(3) Safe Sleeping. [High]	(A) Kinship caregivers who care for children younger than two years of age.	(B) No specified hours.	(C)(i) One kinship foster parent must complete the training before the CPA verifies the home; and (ii) Other kinship caregivers, including the second kinship foster parent must complete the training within 90 days following verification.	(D) The CPA must determine the appropriate curriculum.
(4) Administering Psychotropic Medication. [High]	(A) Kinship caregivers who administer psychotropic medication.	(B) No specified hours.	(C) A kinship caregiver must complete the training before administering a psychotropic medication.	(D) The CPA must determine the appropriate curriculum.

§749.4429. Additional Training Requirements.

Subchapter W, Kinship Foster Homes

Division 2, Pre-Verification and Ongoing Training Requirements

November 2025

(a) From the date a child-placing agency (CPA) verifies a kinship foster home, the CPA must annually evaluate the kinship foster home to identify any areas of non-compliance with minimum standards. [High]

(b) If the CPA identifies areas of non-compliance in the kinship foster home, the CPA must provide all kinship caregivers in that kinship foster home with additional training appropriate to address the areas of non-compliance. [High]

(c) For each kinship foster home that provides care to a kinship foster child receiving treatment services for emotional disorders, intellectual disabilities, or autism spectrum disorder, the CPA must provide at least one hour of annual training to each kinship caregiver relating to the treatment services that the kinship foster child receives, regardless of whether the CPA identifies concerns in the home. [High]

Division 3, Admission and Placement

§749.4441. Admission Criteria.

Subchapter W, Kinship Foster Homes

Division 3, Admission and Placement

November 2025

(a) A kinship foster home may only provide foster care to kinship foster children. A kinship foster child may be admitted as a regular admission or emergency admission. [Medium-High]

(b) Each kinship placement must meet the kinship foster child's physical, medical, recreational, educational, and emotional needs as identified in the kinship foster child's admission assessment or the written assessment of the child's needs and strengths by the Texas Department of Family and Protective Services. [Medium-High]

(c) After a kinship foster child turns 18 years old, the person may remain in care until the person's 23rd birthday to [Medium]:

(1) Transition to independence, including attending college or vocational or technical training;

(2) Attend high school, a program leading to a high school diploma, or GED classes;

(3) Complete the child-placing agency's program; or

(4) Stay with a minor sibling.

(d) A young adult who turns 18 years old in the care of a kinship foster home may remain in care indefinitely if the person [Medium]:

(1) Continues to need the same level of care; and

(2) Is unlikely to physically or intellectually progress over time.

(e) The CPA may admit a young adult into the care of a kinship foster home if the person [Medium]:

(1) Comes immediately from another residential child-care operation;

(2) Meets the conditions of subsection (d) of this section; and

(3) Is in the care of the Texas Department of Family and Protective Services.

§749.4443. Documentation of Admission Information.

Subchapter W, Kinship Foster Homes

Division 3, Admission and Placement

November 2025

A child-placing agency (CPA) must document the following in the kinship child's record [Medium-High]:

(1) Initial admission information;

(2) The admission assessment;

(3) The signed placement agreement; and

(4) Post-placement contacts.

§749.4445. Initial Requirements at the Time of Admission or Verification.

Subchapter W, Kinship Foster Homes

Division 3, Admission and Placement

November 2025

For each kinship foster child living in the kinship foster home at the time of verification or who is subsequently placed in the home, a child-placing agency (CPA) must obtain the following information prior to verifying the home or admitting the kinship foster child [Medium-High]:

(a) A brief description of the circumstance that led to the kinship foster child's placement in the kinship foster home;

(b) Current health status, chronic or acute health conditions, such as asthma, diabetes, or allergies, and medication the kinship foster child is taking;

(c) Identification of the kinship foster child's high-risk behaviors, if applicable; suicide risk screening, if required; and supervision needs;

(d) Known contraindication to the use of restraint; and

(e) Any safety plans kinship caregivers will implement related to the behaviors or risk factors.

§749.4447. Placement Agreement.

Subchapter W, Kinship Foster Homes

Division 3, Admission and Placement

November 2025

A placement agreement is a child-placing agency's (CPA's) agreement with the kinship foster child's parent or the kinship foster child that defines the CPA's roles and responsibilities and authorizes the CPA to obtain or provide services for the kinship foster child. The placement agreement must include [High]:

(1) Authorization permitting the CPA to care for the kinship foster child;
(2) A medical consent form signed by a person authorized by the Texas Family Code to provide consent; and
(3) The reason for placement and anticipated length of time in care.

§749.4449. Admission Assessment.

Subchapter W, Kinship Foster Homes

Division 3, Admission and Placement

November 2025

(a) A child-placing agency (CPA) must use the information obtained during the admission assessment to facilitate service planning and evaluate whether the placement is appropriate for the kinship foster child. [High]
(b) The admission assessment must be complete within the following timeframe. [Medium-High]

Figure: 26 TAC §749.4449(b)

The kinship foster child is already living in the home at the time of verification:	Admission assessment complete:
(1) Yes	Within 40 days of verifying the kinship foster home.
(2) No	Within 40 days of admitting the child into a CPA's care.

(c) The admission assessment must include [High]:

(1) A description of the circumstances that led to the kinship foster child's referral for substitute care;

(2) A description of the kinship foster child's behavior, including appropriate and maladaptive behavior and any high-risk behavior;

(3) Any history of physical, sexual, or emotional abuse or neglect;

(4) Current medical status, including the available results of any medical and dental examinations;

(5) Current mental health and substance abuse status, including available results of any psychiatric evaluation, psychological evaluation, or psychosocial assessment;

(6) The child's current developmental, educational, and behavioral level of functioning;

(7) The kinship foster child's social history, including information about the past and existing relationship with the kinship foster child's birth parents, siblings, and extended family members and the quality of those relationships with the child;

(8) The kinship foster child's criminal history, if applicable;

(9) A determination how the CPA can meet the needs of the kinship foster child and the services the CPA plans to provide; and

(10) If the child is at least three years of age, the most recent copy of the written assessment of the child's needs and strengths by the Texas Department of Family and Protective Services (DFPS).

(d) The written assessment of the child's needs and strengths by DFPS may be used in place of completing the admission assessment. If the DFPS assessment is used in place of the admission assessment, it must be requested and reviewed within the timeframe established in subsection (b) of this section. [Medium-High]

(e) The competed admission assessment or written assessment of the child's needs and strengths by DFPS must be shared with the kinship foster parents. [Medium-High]

§749.4451. Post-Placement Contacts.

Subchapter W, Kinship Foster Homes

Division 3, Admission and Placement

November 2025

(a) Child placement staff must have monthly face-to-face contact with a kinship foster child. [High]

(b) Monthly visits must meet the following requirements [Medium-High]:

(1) At least half of the contacts must occur in the foster home;

(2) The child placement staff must ensure that the kinship foster child is safe and their basic needs are being met;

(3) The visits must:

(A) Be for a length of time to address the needs of a kinship foster child who is verbal, or observe the kinship foster child if they are non-verbal;

(B) Provide an opportunity to meet privately; and

(C) Provide an opportunity for the kinship foster child to express their feelings about how the placement is working out.

Division 4, Medical and Dental Requirements

§749.4461. Documentation Requirements for Medical and Dental Care.

Subchapter W, Kinship Foster Homes

Division 4, Medical and Dental Requirements

November 2025

(a) A child-placing agency (CPA) must verify that the following is documented either in the kinship foster child's health passport or in the kinship foster child's record [Medium-High]:

(1) Each emergency medical and dental visit or hospitalization, including a discharge summary; and

(2) Applicable immunization requirements.

(b) A kinship foster home must maintain a daily medication log for each controlled substance and psychotropic prescription medication administered to a kinship foster child on a form provided by the CPA. The daily medication log must include [High]:

(1) The name of the kinship foster child;

(2) The name of the controlled substance or psychotropic medication administered; and

(3) The date and time the medication was administered.

(c) If a kinship caregiver fails to administer any medication to a kinship foster child according to the medication label or subsequent signed orders, the kinship caregiver must document the following on a form provided by the CPA [High]:

(1) The kinship foster child's name;

(2) The medication name;

(3) A description of the medication error; and

(4) How the kinship caregiver ensured the kinship foster child's safety.

§749.4463. General Medical, Dental, Immunization, and Medication Requirements.

Subchapter W, Kinship Foster Homes

Division 4, Medical and Dental Requirements

November 2025

(a) A kinship foster child must receive timely routine and emergency medical and dental care. [High]

(b) At the time of verification, a child-placing agency (CPA) must verify whether a kinship foster child who is at least three years old has had a medical examination within the past year and a dental examination within the past year. If the CPA determines that the child has not had one of these examinations during that time frame, the CPA must develop a plan for the child to receive the examination. [Medium-High]

(c) All medications must be administered according to the instructions on the label or according to a prescribing health-care professional's subsequent signed order. [High]

(d) All medications must be stored securely and in a way that makes them inaccessible to kinship foster children. [High]

(e) Each kinship foster child that a child-placing agency admits must meet and continue to meet applicable immunization requirements as specified by the Texas Department of State Health Services. [High]

Division 5, Daily Care, Education, and Discipline

§749.4471. Normalcy.

Subchapter W, Kinship Foster Homes

Division 5, Daily Care, Education, and Discipline

November 2025

A kinship foster parent must ensure a kinship foster child has the opportunity to participate in childhood activities, including unsupervised activities, as much as possible. Childhood activities, including unsupervised activities, must be appropriate in relation to the kinship foster child's age and developmental needs. [High]

§749.4473. Infants: Basic Care and Supervision.

Subchapter W, Kinship Foster Homes

Division 5, Daily Care, Education, and Discipline

November 2025

(a) Each infant in a kinship foster home must receive individual attention, including play, talking, cuddling, and holding. [High]

(b) A kinship caregiver must provide prompt attention to an infant's physical needs, such as feeding and diapering. [High]

(c) A kinship caregiver must ensure that the environment is safe for each infant, including [High]:

(1) Keeping the area free of objects that may choke or harm the infant; and

(2) Ensuring accessible electrical outlets have childproof covers or safety outlets.

(d) Items necessary for diaper changing must be kept out of the reach of kinship foster children. [Medium-High]

(e) A kinship caregiver must never leave an infant unsupervised. [High]

(1) A sleeping infant is considered supervised if the kinship caregiver:

(A) Is within eyesight or hearing range of the infant and can intervene as needed; or

(B) Uses a video camera or audio monitoring device to monitor the infant and is close enough to the infant to intervene as needed.

(2) An awake infant is considered supervised if the kinship caregiver is within eyesight of the infant and is close enough to the infant to intervene as needed. For short periods of time during routine household activities, the infant may be out of the kinship caregiver's eyesight, as long as:

(A) The infant is within hearing range of the kinship caregiver;

(B) The infant's environment is free of any safety hazards; and

(C) The kinship caregiver can intervene immediately, as needed.

§749.4475. Infants: Cribs.

Subchapter W, Kinship Foster Homes

Division 5, Daily Care, Education, and Discipline

November 2025

(a) A kinship foster home that provides care to a kinship foster child who is an infant must have an individual crib for the infant. All cribs must:

(1) Have a firm, flat mattress that snugly fits the sides of the crib, and the mattress must not be supplemented with additional foam material or pads and must be waterproof or washable [High];

(2) Have sheets that fit snugly and do not present an entanglement hazard [High];

(3) Be bare, except for a tight-fitting sheet, for an infant who is younger than twelve months of age [High]; and

(4) Be assembled per the manufacturer's instructions with no loose hardware, damaged parts, or entrapment hazards. [High]

(b) A kinship foster home may use a full-sized, portable, or mesh-side crib if:

(1) The kinship caregivers follow the manufacturer's instructions [High]; and

(2) The crib has mesh that is securely attached to the top of the rails and floor plate, and the folded sides are securely latched in place when raised. [High]

(c) The kinship foster home may not use a stackable crib for an infant. [High]

(d) A kinship caregiver must never leave an infant in a crib, portable crib, or mesh-side crib with a side folded down. [High]

(e) An infant receiving treatment services for primary medical needs may have special items that assist with safe sleep at the written recommendation of a health-care professional. The child-placing agency (CPA) must keep the recommendation in the kinship foster child's record. [High]

(f) The CPA must notify the parent of each child in care of each kinship foster home verified by the CPA of any deficiencies relating to subsections (a)(1), (a)(3), or (b)(2) of this section. [High]

§749.4477. Infants: Safe Sleep Requirements.

Subchapter W, Kinship Foster Homes

Division 5, Daily Care, Education, and Discipline

November 2025

(a) A kinship caregiver must place an infant who is unable to turn over without assistance in a face-up sleeping position unless a healthcare professional orders otherwise. A child-placing agency (CPA) must keep any orders from a healthcare professional in the kinship foster child's record. [High]

(b) An infant's head, face, or crib must not be covered at any time by any item, including a blanket, linen, or clothing. [High]

(c) An infant must not co-sleep with any individual in any location. [High]

(d) An infant must not sleep in a restrictive device, such as a car seat, swing, bouncy seat, or highchair. If an infant falls asleep in one of these devices, the kinship caregiver must move the infant to a crib as soon as possible. [High]

(e) An infant who can roll over without assistance must not be swaddled. [High]

(f) The CPA must notify the parent of each child in care of each kinship foster home verified by the CPA of any deficiencies cited in this section. [High]

§749.4479. Infants: Equipment Safety.

Subchapter W, Kinship Foster Homes

Division 5, Daily Care, Education, and Discipline

November 2025

A highchair, swing, stroller, infant carrier, rocker, bouncy seat, or similar type of equipment that a kinship foster home uses for an infant must have safety straps fastened when the equipment is in use with the infant. [High]

§749.4481. Infants: Feeding Requirements.

Subchapter W, Kinship Foster Homes

Division 5, Daily Care, Education, and Discipline

November 2025

(a) Kinship caregivers must feed an infant based on the recommendations of the infant's health-care professional. [High]

(b) Unless recommendations from the service planning team are contrary, kinship caregivers must hold the infant while feeding the infant if the infant is [High]:

(1) Birth through six months old; or

(2) Unable to sit unassisted in a highchair or other seating equipment during feeding.

(c) Kinship caregivers must never prop a bottle by supporting it with anything other than the infant's or adult's hands. [High]

(d) A kinship caregiver who cares for more than one infant must [Medium-High]:

(1) Sterilize shared bottles or training cups between uses by different infants; and

(2) Clean highchair trays before each use.

§749.4483. Toddlers: Basic Care Requirements.

Subchapter W, Kinship Foster Homes

Division 5, Daily Care, Education, and Discipline

November 2025

(a) Each toddler must receive individual attention, including play, talking, and cuddling. [High]

(b) A kinship caregiver must ensure that the environment is safe for each toddler, including [High]:

(1) Keeping the area free of objects that may choke or harm the toddler; and

(2) Ensuring each accessible electrical outlet has a childproof cover or safety outlet.

(c) A kinship caregiver must never leave a toddler unsupervised. A toddler is considered supervised if the kinship caregiver [High]:

(1) Is within eyesight or hearing range of the child and can intervene as needed; or

(2) Uses a video camera or an audio monitoring device to monitor the kinship foster child and is close enough to the child to intervene as needed.

§749.4485. Additional Requirements for Pregnant Kinship Foster Children.

Subchapter W, Kinship Foster Homes

Division 5, Daily Care, Education, and Discipline

November 2025

A child-placing agency must ensure information, training, and counseling is available regarding prenatal care, childbirth, and recovery from childbirth. [Medium-High]

§749.4487. Additional Requirements for Kinship Foster Children Receiving Treatment Services for Primary Medical Needs or Intellectual Disabilities.

Subchapter W, Kinship Foster Homes

Division 5, Daily Care, Education, and Discipline

November 2025

(a) A kinship caregiver who cares for a kinship foster child receiving treatment services for primary medical needs or an intellectual disability must follow recommendations from the kinship foster child's medical providers, including recommendations relating to physical stimulation. [High]

(b) A kinship caregiver must ensure that a kinship foster child receiving treatment services for primary medical needs or an intellectual disability has opportunities for sensory stimulation. [High]

§749.4489. Educational Services: General.

Subchapter W, Kinship Foster Homes

Division 5, Daily Care, Education, and Discipline

November 2025

(a) A child-placing agency (CPA) must arrange appropriate education for each kinship foster child, including [Medium-High]:

(1) Ensuring the kinship foster child attends an educational facility or program that is approved or accredited;

(2) Advocating for the kinship foster child to receive educational and related services to which the child is entitled under provisions of federal and state law and regulations, including the implementation of an individual education plan (IEP) for students receiving special education services; and

(3) Ensuring that an education program for a kinship foster child with autism spectrum disorder:

(A) Encourages normalization through appropriate stimulation and by encouraging self-help skills; and

(B) Is appropriate to the kinship foster child's intellectual and social functioning.

(b) For a kinship foster child receiving treatment services, the CPA must designate a liaison between the agency and the kinship foster child's school. [Medium-High]

§749.4491. Educational Services: Caregiver Responsibilities.

Subchapter W, Kinship Foster Homes

Division 5, Daily Care, Education, and Discipline

November 2025

Kinship caregivers must:

(1) Request Admission, Review, and Dismissal (ARD), Individual Education Plan (IEP), and Individual Transitional Planning (ITP) meetings, if concerned with a kinship foster child's education program or if the kinship foster child does not appear to be making progress [High];

(2) Attend ARD, IEP, ITP meetings, or other school staffings and conferences to represent the kinship foster child's educational best interests [High]; and

(3) Know what is in the kinship foster child's IEP and support the school's efforts to implement the IEP, if applicable. [High]

§749.4493. Discipline and Punishment.

Subchapter W, Kinship Foster Homes

Division 5, Daily Care, Education, and Discipline

November 2025

(a) Only a kinship caregiver known to and knowledgeable of a kinship foster child may discipline the child. [High]

(b) All disciplinary measures used with a kinship foster child must be consistent with the child's rights related to discipline and punishment. [High]

Division 6, Screenings and Verifications

§749.4501. General Requirements.

Subchapter W, Kinship Foster Homes

Division 6, Screenings and Verifications

November 2025

(a) Each kinship foster parent must be at least 18 years old. [Medium-High]

(b) A child-placing agency (CPA) may verify only one spouse as a kinship foster parent if [Medium-High]:

(1) The spouse whom the CPA verifies will be the only one responsible for the day-to-day care of kinship foster children in the home; and

(2) The CPA determines that the spouses maintain separate residences.

(c) A kinship foster home may not be verified to provide kinship foster services by more than one CPA at a time; however, a home may be verified by one agency to provide kinship foster care services only and approved by another CPA for adoption only. [Medium-High]

§749.4503. Kinship Foster Home Screenings.

Subchapter W, Kinship Foster Homes

Division 6, Screenings and Verifications

November 2025

(a) A child-placing agency (CPA) must complete a home screening before verifying a kinship foster home. The CPA may [High]:

(1) Complete the home screening as detailed in this section; or

(2) Use a completed home assessment obtained from the Texas Department of Family and Protective Services (DFPS) or Single Source Continuum Contractor (SSCC). If the CPA uses the home assessment obtained from DFPS or SSCC, the CPA is responsible for ensuring it meets the requirements of this division.

(b) The CPA must update a kinship foster home screening with an addendum any time there is a major life change in the kinship foster family. [Medium-High]

(c) Through interviewing each prospective kinship foster parent or completing a joint interview, a CPA must obtain, discuss, document, and assess the following information about a prospective kinship foster home.

Figure: 26 TAC §749.4503(c)

Required Information	Discussion, Assessment, and Documentation Requirements
(1) The age of each prospective kinship foster parent and any other member of the household. [Medium]	The CPA must document the ages of all household members.
(2) The basic competency of each prospective kinship foster parent. [High]	The CPA must ensure and document that each prospective kinship foster parent: (A) Can meet basic competencies, including basic reading, writing, and math; or (B) Have a support system in place that can immediately assist with these subjects.
(3) Personal characteristics. [High]	The CPA must document information from the prospective kinship foster parents that demonstrate the CPA's assessment of: (A) Each parent's emotional stability, character, health, and adult responsibility; and (B) The ability to provide a caring environment, appropriate supervision, and responsible discipline.
(4) History of current interpersonal relationships, including marriages, common-law marriages, and other relationships between people who share or have shared a domestic life without being married. [Medium-High]	The CPA must document information about the current relationship status of the prospective kinship foster parents.
(5) A history of the prospective kinship foster parents' residence. [Medium]	The CPA must document the length of time spent at each residence for the last two years (street address, city, state).

Required Information	Discussion, Assessment, and Documentation Requirements
(6) The financial status of the prospective kinship foster parents. [Medium-High]	(A) The CPA must discuss with the prospective kinship foster parents the current reimbursement process, if applicable, and assess the prospective kinship foster parents' understanding of that process. (B) The CPA must assess and document that the prospective kinship foster parents have or have reasonable access to sufficient resources to support the household and all children in care.
(7) The results of criminal history and central registry background checks conducted on the prospective kinship foster parents and on any non-client 14 years of age or older who regularly or frequently stays at or is present in the home.	(A) The CPA must assess, document, and maintain the documented assessment of the background checks for the prospective kinship foster parents and any person, including any non-client 14 years of age or older who will be regularly or frequently staying at or is present in the home. [High] (B) With respect to law enforcement service call information, the CPA must do the following. [High] (i) Obtain service call information from the appropriate law enforcement agency for each of the prospective kinship foster parent's addresses over the past two years. Discuss with the prospective kinship foster parents any service call information that the CPA obtains from a law enforcement agency and the facts surrounding the incident. (ii) Regardless of background check results, ask the prospective kinship foster parents whether any law enforcement agency has responded to any of the prospective kinship foster parent's residences in the past two years. If the CPA obtains additional information from the prospective kinship foster parents, request background information from each law enforcement agency that responded. Discuss the incident and any additional background information that the CPA obtains with the prospective kinship foster parents. (iii) Assess and document information obtained from law enforcement and any discussion with the prospective kinship foster parents in the foster home screening.

Required Information	Discussion, Assessment, and Documentation Requirements
(8) Health status of all persons living in the home. [High]	Discuss, assess, and document: (A) Information about the physical and mental health status (including substance abuse history) of all persons living in the home in relation to the family's ability to provide kinship care; and (B) Whether any noted health-related issue may affect the prospective kinship foster parents' ability to care for a kinship foster child.
(9) The prospective kinship foster parents' values, feelings, and practices regarding child care and discipline. [High]	(A) Discuss, assess, and document: (i) Each prospective kinship foster parent's experience caring for children; (ii) The ways each prospective kinship foster parent was disciplined as a child and the prospective kinship foster parent's reactions to the discipline; and (iii) Each prospective kinship foster parent's discipline styles, techniques, and ability to recognize and respect differences in children and use discipline methods suitable to an individual child. (B) Discuss the CPA's approved disciplinary methods. If a prospective kinship foster parent's current discipline methods are different than those that the CPA approves, the CPA must discuss and assess how the kinship foster parent would change child-care practices to conform to the CPA's approved methods.

Required Information	Discussion, Assessment, and Documentation Requirements
(10) Each prospective kinship foster parent's sensitivity to and feelings about children who may have been subjected to abuse or neglect. [High]	(A) Discuss, assess, and document each prospective kinship foster parent's: (i) Understanding of the dynamics of child abuse and neglect; and (ii) How these issues and experiences will affect the kinship foster parents, the families, and kinship foster children in care. (B) Assess and document the availability of family and community resources to meet the needs of the children in the kinship foster family's care.
(11) The attitude of other household members about the prospective kinship foster parents' plan to provide foster care. [Medium-High]	Discuss, assess, and document the attitudes of other household members toward the plan to provide kinship foster care, including each household member's: (A) Involvement in the care of kinship foster children; (B) Attitudes toward kinship foster children; and (C) Acceptance of the verification as a kinship foster family.
(12) Support systems available to prospective kinship foster parents. [High]	(A) Discuss, assess, and document the support systems available to each kinship foster parent and the support the family may receive from these resources. The CPA must ask each prospective kinship foster parent for information about any person who may provide support as a caregiver during an unexpected event or crisis, such as an illness or disability of a kinship foster parent, loss of transportation, or the death of an immediate family member. (B) Unless the person will be a caregiver immediately after the CPA verifies the home, a background check on the person does not have to be completed before the CPA verifies the home.

Required Information	Discussion, Assessment, and Documentation Requirements
(13) Background information from other child-placing agencies. [High]	(A) Request, assess, and maintain the background information that the other CPA provides. (B) The receiving CPA must address and document the closure or any identified risk indicators, as applicable, with the prospective kinship foster parents before approval and verification of the home if the background information indicates that: (i) The kinship foster home was closed by the other CPA; or (ii) There were any potential risk indicators that the other CPA did not adequately address with the kinship foster parents.

(d) Regarding (c)(7) in subsection (c) of this section the CPA must report to Child Care Regulation the information obtained about the prospective kinship foster family's domestic violence history, as applicable. The CPA must report this information regardless of whether the CPA verifies the home. [High]

§749.4505. Verifying a Kinship Foster Home.

Subchapter W, Kinship Foster Homes

Division 6, Screenings and Verifications

November 2025

A child-placing agency (CPA) must take the following steps to verify a kinship foster home.

(1) Complete and document the requirements in this division.

(2) Obtain the following [Medium]:

(A) A sketch, photo, or other documentation of the home that shows the purposes of all rooms in the home and identifies the indoor areas for the kinship foster children's use; and

(B) A sketch or photo of the outside areas that shows the buildings, driveways, fences, storage areas, gardens, recreation areas, and bodies of water.

(3) Evaluate all areas required in this subchapter by:

(A) Completing an inspection of the kinship foster home to ensure that the home meets applicable rules relating to Daily Care, Education, and Discipline, and Health and Safety Requirements, Environment, Space and Equipment of this subchapter [High]; and

(B) Making recommendations about the home's overall ability to keep kinship foster children safe, paying specific attention to areas of substantial safety risk to kinship foster children and how the CPA addressed areas of identified safety risks with the prospective kinship foster parent before approving and verifying the kinship foster home [High]; and

(C) Documenting in the kinship foster home file the details of the inspection of the kinship foster home and any identified safety risks. [Medium-High]

(4) Obtain from the child placement management staff the review and approval of the home screening, and the recommended verification of the home. [Medium-High]

(5) Issue a verification certificate that must be posted at the kinship foster home or immediately available for review upon request that includes [Medium]:

(A) The name and address of the kinship foster family;

(B) The kinship foster home's total capacity and kinship foster care capacity, including ages and sex of the kinship foster children being served; and

(C) The types of services the home provides.

§749.4507. Previously Verified Kinship Foster Homes.

Subchapter W, Kinship Foster Homes

Division 6, Screenings and Verifications

November 2025

(a) For a kinship foster home previously verified by another child-placing agency (CPA), the receiving CPA must conduct and complete a new home screening as required in this subchapter. [High]

(b) If the kinship foster home is transferring from another CPA, the receiving CPA must request information about the home by submitting a written request to the agency that transferred the kinship foster home. [High]

(c) If the kinship foster home is transferring from another CPA with a child in care, the receiving CPA may verify the kinship foster home prior to completion of the background check.

§749.4509. Releasing Information About a Previously Verified Kinship Foster Home.

Subchapter W, Kinship Foster Homes

Division 6, Screenings and Verifications

November 2025

(a) A child-placing agency (CPA) must release background information regarding a current or previous kinship foster home to [High]:

(1) Another CPA conducting a foster home screening, pre-adoptive home screening, or post-placement adoptive report; or

(2) An independent contractor who is hired or required by the court to conduct a social study under Chapter 107 of the Texas Family Code.

(b) Background information includes [High]:

(1) The kinship foster home screening and any related documentation or addendums;

(2) Documentation of supervisory visits and evaluations for the past year;

(3) Any record of deficiencies and their resolutions for the past year, including information regarding pending investigations and unresolved deficiencies;

(4) The most current fire and health inspections or checklists;

(5) The transfer or closing summary for the kinship foster home;

(6) Copies of any current or previous plans to achieve compliance or other type of development plan for the past two years, if applicable; and

(7) Copies of any current or previous corrective action or adverse action plans for the past two years, if applicable.

(c) A CPA must release the background information to the requesting agency by the 10th day after receiving the written request, including informing the requesting agency of any pending investigations and unresolved deficiencies. By the 10th day after the completion of any pending investigations and the resolution of any deficiencies, the CPA must release to the requesting agency the [High]:

(1) Outcome of any investigations and any resulting deficiencies cited; and

(2) Resolution of any deficiencies.

§749.4511. Changes to the Verification Status of a Kinship Foster Home.

Subchapter W, Kinship Foster Homes

Division 6, Screenings and Verifications

November 2025

(a) A child-placing agency (CPA) must submit information to Child Care Regulation within two business days of [Medium-High]:

(1) Verifying a new kinship foster home or issuing a temporary kinship foster home verification;

(2) Placing a kinship foster home on or taking it off inactive status;

(3) Changing conditions of the verification for an existing kinship foster home; and

(4) Closing a kinship foster home, including the reason the CPA closed the home.

(b) If a CPA changes the conditions of a kinship foster home's verification to allow the home to provide additional services, the child placement management staff must ensure there is no conflict of care with children currently in the home. [Medium-High]

(c) If the kinship foster home adds a new, unrelated household member, the CPA must [High]:

(1) Ensure the individual has the necessary background checks; and

(2) Evaluate the impact the individual will have on the kinship foster family and kinship foster children prior to the individual moving into the home.

§749.4513. Transferring or Closing a Kinship Foster Home.

Subchapter W, Kinship Foster Homes

Division 6, Screenings and Verifications

November 2025

(a) A child-placing agency (CPA) must complete a transfer summary or closing summary when a kinship foster home transfers to another CPA or closes. [Medium-High]

(b) A transfer summary and a closing summary must include [Medium-High]:

(1) A copy of the verification certificate;

(2) The kinship foster home's addresses for the past two years and, as needed, directions for rural addresses;

(3) The length of time the kinship foster parents have been verified by the CPA;

(4) For the kinship foster children that were in care for the last two years, the:

(A) Number of kinship children fostered;

(B) Type of treatment services provided to each kinship foster child; and

(C) Reason for each kinship foster child's discharge from care;

(5) A description of any limitations on the verification that were in place for the kinship foster home in caring for and working with kinship foster children;

(6) A description of any indicators of risk to children at the time of the transfer or closing;

(7) Any plan to achieve compliance or other type of development plan that was in place within the previous 12 months of the date of transfer or closing;

(8) Any corrective action or adverse action plan that was in place at the time of transfer or closing; and

(9) A statement concerning whether the CPA would recommend the kinship foster home for verification in the future, including whether the CPA would recommend any limitations or restrictions on the verification, and the basis of the CPA's recommendation.

(c) A transfer summary must also [High]:

(1) Include pending investigations or unresolved deficiencies; and

(2) Be completed by the 10th day after a CPA receives a written request to transfer and the transferring CPA must forward it immediately to the requesting CPA.

(d) A closing summary must also [High]:

(1) Include the reason the home is closing, including whether the CPA required the kinship foster home to close;

(2) Include any unresolved deficiencies that have not been corrected and a description of those deficiencies; and

(3) Be completed by the 20th day after a kinship foster home is closed.

§749.4515. Temporary Kinship Foster Home Verifications.

Subchapter W, Kinship Foster Homes

Division 6, Screenings and Verifications

November 2025

(a) A child-placing agency (CPA) may issue a temporary kinship foster home verification when a kinship foster home moves from one residence to another. Within 30 days of the kinship foster home moving to the new residence, the CPA must inspect the new residence for compliance with health and safety requirements in this subchapter. [High]

(b) Before issuing the non-expiring kinship foster home verification, the CPA must ensure the kinship foster home is compliant with all requirements in this subchapter. [High]

(c) A temporary kinship foster home verification is valid for a maximum of six months. [High]

§749.4517. Capacity and Child/Caregiver Ratio.

Subchapter W, Kinship Foster Homes

Division 6, Screenings and Verifications

November 2025

(a) A kinship foster home may care for up to six children regardless of the number of caregivers or ages of the children in the home. This capacity includes kinship foster children, as well as adopted and biological children living in the home, children receiving respite services, and children for whom the kinship foster home provides daycare. [High]

(b) A kinship foster home may care for seven or eight children as recommended and approved by the Texas Department of Family and Protective Services and a child-placing agency (CPA). To approve expanding the kinship foster home's capacity, the CPA must [High]:

(1) Complete Form 4003 Foster Family Home Capacity Exception; and

(2) Request a variance from Child Care Regulation.

§749.4519. Supervision.

Subchapter W, Kinship Foster Homes

Division 6, Screenings and Verifications

November 2025

(a) The child placement management staff must ensure that supervision of a kinship foster child adequately accounts for [High]:

(1) The specific needs of the kinship foster child, including any history of high- risk behaviors that would require additional supervision; and

(2) The environment where the supervision is taking place.

(b) A kinship caregiver is responsible for [High]:

(1) Knowing which kinship foster children the kinship caregiver is responsible for;

(2) Providing the level of supervision necessary to ensure each kinship foster child's safety and well-being, including auditory and/or visual awareness of each kinship foster child's ongoing activity as appropriate;

(3) Being able to intervene when necessary to ensure each kinship foster child's safety; and

(4) Being aware of any special supervision needs based on the kinship foster child's developmental age, maturity, and service plan restrictions.

(c) When a kinship foster child participates in an unsupervised childhood activity, the kinship caregiver must know [High]:

(1) Where the kinship foster child is scheduled to be, and who they will be with; and

(2) How and when the kinship foster child will be returning home.

§749.4521. Kinship Foster Children as Babysitters.

Subchapter W, Kinship Foster Homes

Division 6, Screenings and Verifications

November 2025

(a) A kinship foster child may serve as a babysitter for another kinship foster child if the child placement management staff approves the child to babysit and establishes limits with duration and frequency. [High]

(b) A child-placing agency must consider [High]:

(1) The developmental age of the child who will provide the babysitting; and

(2) Any known history of high-risk behaviors of the child providing the babysitting and the child who will be babysat.

§749.4523. Respite Child-Care Services.

Subchapter W, Kinship Foster Homes

Division 6, Screenings and Verifications

November 2025

(a) A kinship foster home may only provide respite services to a kinship foster child. [Medium-High]

(b) The child placement management staff (CPMS) must approve any respite child-care and ensure that the placement will not cause a conflict of care for any child that is already placed in the home. [High]

(c) The CPMS must ensure information is shared about the kinship foster children to ensure continuity of care, including any special supervision requirements or safety plans. [High]

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

§749.4551. Documentation of Health and Safety Requirements.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

A child-placing agency must document the following in the kinship foster home's record [High]:

(1) The results of each health inspection or health and safety evaluation;

(2) The results of each fire inspection or fire safety evaluation; and

(3) A copy of the home's emergency preparedness plan, including any subsequent reviews.

§749.4553. Health and Fire Inspections.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

(a) A kinship foster home must have either [High]:

(1) A health inspection conducted by the local health authority; or

(2) A health and safety evaluation conducted by the child-placing agency's (CPA's) child placement staff using the Environmental Health Checklist for Kinship Foster Homes form.

(b) A kinship foster home must also have either [High]:

(1) A fire inspection conducted by a state or local fire authority; or

(2) A fire safety evaluation developed and conducted by the CPA's child placement staff.

(c) A kinship foster home must correct any deficiencies documented during any inspection or evaluation and comply with any conditions or restrictions specified by the inspector or evaluator. [High]

§749.4555. Emergency Plans.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

(a) A kinship foster home must have a written plan for handling potential disasters and emergencies, including fire and severe weather. The child-placing agency (CPA) that verified the home must annually review and evaluate the plan with all kinship caregivers and kinship foster children in the home. The review of the plan must be provided in the kinship foster child's communication method. [High]

(b) The CPA may develop the emergency plan with the kinship foster family or obtain a copy of the emergency plan the family developed with the Texas Department of Family and Protective Services or Single Source Continuum Contractor. [High]

§749.4557. Fire Safety.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

(a) A kinship foster home must have a working smoke detector in the following areas [High]:

(1) The kitchen;

(2) Hallways or open areas outside of sleeping rooms; and

(3) On each level of a home with multiple levels.

(b) The kinship foster home must have one non-expired, operational fire extinguisher that is accessible in the case of emergency. [High]

(c) The kinship foster home must ensure that exits to the home are not blocked. [High]

§749.4559. Animals.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

Any animal on the premises of a kinship foster home must not pose a health or safety threat to the kinship foster children. [High]

§749.4561. Weapons, Firearms, Explosive Materials, and Projectiles in a Kinship Foster Home.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

(a) Each child-placing agency (CPA) must have and enforce a policy that addresses the presence of weapons, firearms, explosive materials, and projectiles in a kinship foster home. The policy must contain specific requirements to ensure that a kinship foster child does not have unsupervised access to these items, including requiring a kinship foster parent to keep such items in locked storage when they are not in use. [High]

(b) The CPA must determine whether it is appropriate for a specific kinship foster child to use weapons, firearms, explosive materials, or projectiles. [High]

(c) No kinship foster child may use a weapon, firearm, explosive material, or projectile unless the kinship foster child is directly supervised by an adult knowledgeable about the use of the weapon, firearm, explosive material, or projectile that is to be used by the kinship foster child. [High]

(d) The CPA must determine whether it is appropriate for a specific kinship foster child to use a toy that explodes or shoots. [High]

(e) No kinship foster child may use or be around a toy that explodes or shoots unless the kinship foster child is directly supervised by an adult and the toy is age-appropriate for the kinship foster child. [High]

§749.4563. Storage of Weapons, Firearms, Explosive Materials, or Projectiles in a Kinship Foster Home.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

(a) When determining if weapons, firearms, explosive materials, and projectiles are stored so that a kinship foster child does not have unsupervised access to such items, the child-placing agency (CPA) must consider the age, history, emotional maturity, and background of the children in the kinship foster home. [High]

(b) A CPA may not require the kinship foster home to disclose the specific types of firearms that are stored or otherwise present in the kinship foster home. [High]

(c) Firearms that are inoperable and solely ornamental are exempt from the storage requirements in this rule. [High]

§749.4565. Determining if Weapons, Firearms, Explosive Materials, or Projectiles are Present in a Kinship Foster Home.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

(a) When a child-placing agency (CPA) completes a kinship foster home screening, the CPA must ask whether weapons, firearms, explosive materials, or projectiles are present in the kinship foster home. If these items are present, the CPA must review the CPA's weapons, firearms, explosive materials, and projectiles policy and requirements with the prospective kinship foster parents. [High]

(b) The kinship foster home record must include documentation on [High]:

(1) Whether weapons, firearms, explosive materials, or projectiles are present in the home; and

(2) Specific precautions the kinship caregivers will take to ensure kinship foster children do not have unsupervised access.

(c) The two-year evaluation of a kinship foster home's compliance with this chapter must include a discussion of whether the kinship foster home has weapons, firearms, explosive materials, or projectiles, and if so, how these items are stored. [High]

(d) In complying with this rule, a CPA may not require the kinship foster home to disclose the specific types of firearms that are stored or otherwise present in the kinship foster home. [High]

(e) In complying with this rule, a CPA may not require the kinship foster home to notify the CPA if there is any change in the types of firearms that are present in the home. [High]

§749.4567. Transporting a Kinship Foster Child in a Vehicle Where Firearms, Explosive Materials, or Projectiles are Present.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

(a) A kinship caregiver may transport a kinship foster child in a vehicle where firearms (other than handguns), other weapons, explosive materials, or projectiles are present if [High]:

(1) All firearms are not loaded;

(2) The firearms, other weapons, explosive materials, or projectiles are inaccessible to the kinship foster child; and

(3) Possession of the firearm is legal.

(b) A kinship caregiver may transport a kinship foster child in a vehicle where a handgun is present if [High]:

(1) The handgun is in the possession and control of the kinship caregiver; and

(2) The kinship caregiver is not prohibited by law from carrying a handgun.

§749.4569. Physical Environment of a Kinship Foster Home.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

(a) A kinship foster home must ensure that indoor and outdoor space and equipment does not pose an undue safety risk to kinship foster children. [High]

(b) Kinship caregivers must provide adequate supervision to prevent access to space or equipment that poses a safety risk to a kinship foster child as needed based on the kinship foster child's developmental age, maturity, and service plan restrictions. [High]

§749.4571. Indoor Space: Sleeping Spaces and Sleeping Surfaces.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

(a) Unless approved to share by the child placement management staff (CPMS), each kinship foster child must have the child's own [High]:

(1) Sleeping space; and

(2) Sleep surface, which may include a bed, mattress, air mattress, futon, or couch.

(b) Before approving a kinship foster child to share a sleeping space or sleeping surface, the CPMS must determine and document in the kinship foster child's service plan there is no known risk of harm to the kinship foster child by sharing a sleeping space or sleeping surface with the other individual after assessing [High]:

(1) The relationship between the kinship foster child and the individual;

(2) The ages and developmental levels of the kinship foster child and the individual, noting that after the kinship foster child's 18th birthday, the kinship foster child may share a bedroom with another youth who is 16 years of age or older, provided the age difference does not exceed two years;

(3) The behaviors of the kinship foster child and the individual;

(4) Any history of possible sexual trauma or sexually inappropriate behaviors of the kinship foster child and the individual; and

(5) Any other identifiable factors that may affect the appropriateness of the individual and the kinship foster child sharing a bedroom.

(c) CPMS may not approve an infant to share a sleeping surface. [High]

§749.4573. Indoor Space: Bathrooms.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

A kinship foster home must have at least [Medium-High]:

(1) one bathroom that allows for privacy;

(2) one toilet; and

(3) one bathroom sink and one tub or shower that have hot and cold running water.

§749.4575. Nutrition and Food Safety.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

(a) Kinship caregivers must provide a kinship foster child with drinking water and food that is served in a safe and sanitary manner. [High]

(b) A kinship home must ensure that all food items are stored in a manner that protects them from contamination, spoiling, and insects and rodents. [High]

§749.4577. Transportation.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

(a) Kinship caregivers must utilize safe and reliable transportation for a kinship foster child. [High]

(b) Special provisions must be made for transporting non-ambulatory and non-mobile children. When necessary, this may include locks for wheelchairs and hydraulic lifts. [High]

(c) A kinship caregiver must secure each kinship foster child in an infant safety seat, rear-facing convertible child safety seat, forward-facing child safety seat, child booster seat, safety vest, harness, or a safety belt, as appropriate to the kinship foster child's age, height, and weight and according to the manufacturer's instructions. [High]

§749.4579. Water Safety: Pools, Hot Tubs, and Bodies of Water.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

(a) Any door that leads from the home to an area with a swimming pool, hot tub, or body of water must have [High]:

(1) A door alarm; or

(2) A lock that is only accessible and operational by an adult unless:

(A) The state or local fire authority determines that the lock violates the fire code; and

(B) The child-placing agency keeps the fire authority's determination in the kinship foster home record.

(b) The bottom of a swimming pool must be always visible. [High]

(c) Swimming pool chemicals and machinery rooms must be inaccessible to kinship foster children. [High]

§749.4581. Swimming Supervision.

Subchapter W, Kinship Foster Homes

Division 7, Health and Safety Requirements, Environment, Space, and Equipment

November 2025

(a) Kinship caregivers must inform each kinship foster child about house rules for the use of a swimming pool, hot tub, or other body of water and appropriate safety precautions. [High]

(b) Supervision and monitoring of safety features must be adequate to protect any kinship foster child from unsupervised access to the swimming pool, hot tub, or other body of water. [High]

(c) Kinship caregivers must ensure that a kinship foster child has access to a lifesaving device when using a swimming pool, hot tub, or body of water. [High]

(d) A personal flotation device (PFD) is a vest or suit designed to keep the wearer afloat in water and prevent drowning. A kinship foster child participating in a swimming activity who is unable to swim must wear a PFD that is U.S. Coast Guard-approved for use by a child that is the correct size for the child. [High]

(e) Kinship caregivers must be able to clearly see all parts of the swimming pool or hot tub when supervising activity in the area. [High]

Appendix A: Definitions

Texas Administrative Code, Title 26 Health and Human Services

Part 1, Health and Human Services Commission

Chapter 745, Licensing Subchapter A. Precedence and Definitions Division 2. Definitions for Licensing

§745.21. What do the following words and terms mean when used in this chapter?

The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise:

(1) Abuse--As defined in the Texas Family Code, §261.001(1) (relating to Definitions) and Texas Administrative Code, Title 40, Chapter 707, Subchapter C, Division 5 (relating to Abuse, Neglect, and Exploitation).

(2) Affinity--Related by marriage as set forth in Texas Government Code, §573.024 (relating to Determination of Affinity).

(3) Business entity--May be an association, corporation, nonprofit association, nonprofit corporation, nonprofit association with religious affiliation, nonprofit corporation with religious affiliation, or limited liability company.

(4) Capacity--The maximum number of children that a permit holder may care for at one time.

(5) Caregiver--A person who is counted in the child to caregiver ratio, whose duties include the supervision, guidance, and protection of a child.

(6) Child--A person under 18 years old.

(7) Child-care facility--An establishment subject to regulation by Licensing that provides assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the establishment operates for profit or charges for its services. A child-care facility includes the people, administration, governing body, activities on or off the premises, operations, buildings, grounds, equipment, furnishings, and materials. A child-care facility does not include child-placing agencies, listed family homes, employer-based child care operations, or shelter care operations.

(8) Child day care--As defined in §745.33 of this chapter (relating to What is child day care?).

(9) Child-placing agency (CPA)--A person, including a sole proprietor, partnership, or business or governmental entity, other than the parents of a child, who plans for the placement of or places a child in a child care operation or adoptive home.

(10) Children related to the caregiver--Children who are the children, grandchildren, siblings, great-grandchildren, first cousins, nieces, or nephews of the caregiver, whether by affinity or consanguinity or as the result of a relationship created by court decree.

(11) Consanguinity--Two individuals are related to each other by consanguinity if one is a descendant of the other; or they share a common ancestor. An adopted child is related by consanguinity for this purpose. Consanguinity is defined in Texas Government Code, §573.022 (relating to Determination of Consanguinity).

(12) Contiguous operations--Two or more operations that touch at a point on a common border or located in the same building.

(13) Controlling person--As defined in §745.901 of this chapter (relating to Who is a controlling person at a child-care operation?).

(14) Deficiency--Any failure to comply with a minimum standard, rule, statute, specific term of your permit, or condition of your probation.

(15) Designated perpetrator--As defined in §745.731 of this chapter (relating to What are designated perpetrators and sustained perpetrators of child abuse or neglect?).

(16) Designee--The person named on the application as the designated representative of the operation who is officially authorized by the owner to speak for and act on the operations' behalf.

(17) Employee--Any person employed by or that contracts with the permit holder, including caregivers, drivers, kitchen personnel, maintenance and administrative personnel, and the center or program director.

(18) Endanger--To expose a child to a situation where physical or mental injury to a child is likely to occur.

(19) Exploitation--As defined in Texas Family Code, §261.001(3) and Texas Administrative Code, Title 40, Chapter 707, Subchapter C, Division 5.

(20) Finding--The conclusion of a Licensing investigation or inspection indicating compliance or deficiency with one or more minimum standards, rules, or statutes.

(21) Full license--The type of full permit that is issued to an operation that requires a license. See also §745.341 of this chapter (relating to What type of permit does Licensing issue?) and §745.343 of this chapter (relating to What is the difference between an initial license and a full license?).

(22) Full permit--A full permit includes a listing, registration, compliance certificate, or a full license. See also §745.341 and §745.343 of this chapter.

(23) Governing body--A group of persons or officers of a business or governmental entity that has ultimate control over the entity.

(24) Governmental entity--A political subdivision or state agency of Texas.

(25) Household member--An individual, other than the caregivers, who resides in an operation.

(26) Initial license--A time-limited license that we issue to certain applicants for a full license in situations described in §745.345 of this chapter (relating to When does Licensing issue an initial license?).

(27) Licensed administrator--As defined in §745.8905 of this chapter (relating to What is a licensed administrator?).

(28) Minimum standards-- Minimum requirements for permit holders that are enforced by Licensing to protect the health, safety, and well-being of children. The minimum standards consist of the rules contained in:

(A) Chapter 742 of this title (relating to Minimum Standards for Listed Family Homes;

(B) Chapter 743 of this title (relating to Minimum Standards for Shelter Care);

(C) Chapter 744 of this title (relating to Minimum Standards for School-Age and Before or After-School Programs);

(D) Chapter 746 of this title (relating to Minimum Standards for Child-Care Centers);

(E) Chapter 747 of this title (relating to Minimum Standards for Child-Care Homes);

(F) Chapter 748 of this title (relating to Minimum Standards for General Residential Operations);

(G) Chapter 749 of this title (relating to Minimum Standards for Child-Placing Agencies);

(H) Chapter 750 of this title (relating to Minimum Standards for Independent Foster Homes); and

(I) Subchapter D, Division 11 of this chapter (relating to Employer-Based Child Care).

(29) Neglect--As defined in the Texas Family Code, §261.001(4) and Texas Administrative Code, Title 40, Chapter 707, Subchapter C, Division 5.

(30) Operation (also known as a child care operation)--A sole proprietor, partnership, or business or governmental entity offering a program that is subject to Licensing's regulation, including day-care operations and residential child care operations. An operation includes the building and grounds where the program is offered, any person involved in providing the program, and any equipment used in providing the program. An operation includes a child-care facility, child-placing agency, listed family home, employer-based child care operation, shelter care operation, or any operation that requires a permit under Chapter 42, Texas Human Resources Code.

(31) Owner—The sole proprietor, partnership, or business or governmental entity that owns an operation that is subject to regulation by Licensing.

(32) Parent--A person who has legal responsibility for or legal custody of a child, including the managing conservator or legal guardian.

(33) Permit--A license, certification, registration, listing, compliance certificate, or any other written authorization granted by Licensing to operate a child care operation. This also includes an administrator's license.

(34) Permit holder--The owner of the operation that is granted the permit.

(35) Pre-kindergarten age child--A child who is three or four years of age before the beginning of the current school year.

(36) Program--Activities and services provided by an operation.

(37) Regulation--Includes the following:

(A) The development of rules, including minimum standards, as provided by statutory authority; and

(B) The enforcement of requirements that are minimum standards, rules, statutes, or any condition or restriction we have placed on a permit. Anyone providing or seeking to provide care or a service that is subject to regulation must comply with the applicable requirements. This includes a permit holder, an applicant for a permit, and anyone providing care or a service without the appropriate permit.

(38) Report--A communication to Licensing or the Department of Family and Protective Services (DFPS), including the Statewide Intake division of DFPS, of:

(A) An allegation of a deficiency in a minimum standard, rule, or statute; or

(B) Any other possible risk to a child in the care of an operation that is subject to regulation by Licensing.

(39) Residential child care--As defined in §745.35 of this chapter (relating to What is residential child care?).

(40) School-age child--A child who is five years of age or older and is enrolled in or has completed kindergarten.

(41) State Office of Administrative Hearings (SOAH)--See §745.8831 of this chapter (relating to What is a due process hearing?).

(42) Sustained perpetrator--See §745.731 of this chapter (relating to Who are designated perpetrators and sustained perpetrators of child abuse or neglect?).