



# Minimum Standards Revision Notice

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Date: April 22, 2022

Effective Date: April 25, 2022

To: All Holders of Chapter  
749, Minimum Standards  
for Child-Placing Agencies

From: Rachel Ashworth-  
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Regulation

Subject: Comprehensive Review of  
Chapter 749

The amendments, new sections, and repeals are necessary to implement Texas Human Resources Code (HRC) §42.042(b), which requires HHSC Child Care Regulation (CCR) to conduct a comprehensive review of all minimum standards every six years. The rule changes are a result of the comprehensive review of all minimum standards located in Chapter 749.

In addition, the purpose of some of the rule changes is to implement sections of statute that were amended by House Bill (H.B.) 700, H.B. 1387, and H.B. 1927, 87th Texas Legislature, Regular Session, 2021:

- H.B. 700 added §264.1214(c) to the Texas Family Code to allow an adult in care to share a bedroom with a child in care who is at least 16 years old and the age difference is not more than 24 months.

- H.B. 1387 amended HRC §42.042(e-1) to allow foster homes to store their firearms and ammunition in the same locked location without trigger locks.
- H.B. 1927 amended HRC §42.042(e-2) to allow a foster parent to transport a foster child in a vehicle with a handgun if the **foster parent “is not otherwise prohibited by law from carrying a handgun.”** This subsection previously focused specifically on whether a foster parent was “licensed to carry” a handgun. The handgun is still required to be in the possession and control of the foster parent.

The changes are effective April 25, 2022.

## Comprehensive Review of Chapter 749

Note: Many rules also have non-substantive changes, which are made to improve the understanding and readability of the rules. These non-substantive changes are not identified in this document.

### Definitions and Services

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

Amended §749.43:

- Adds the terms and definitions for “**babysitter,**” “**contract service provider,**” “**employee,**” “**foster care,**” “**normalcy,**” “**overnight care,**” “**residential child-care operation,**” and “**single source continuum contractor;**”
- Clarifies the definitions for the terms “**babysitting,**” “**caregiver,**” “**chemical restraint,**” “**foster family home,**” “**health-care professional,**” “**mechanical restraint,**” “**overnight care provider,**” “**parent,**” “**personal restraint,**” “**school-age child,**” “**seclusion,**” “**swimming activities,**” and “**volunteer;**” and
- Deletes the terms and definitions for “**foster group home**” and “**foster home.**”

### Organization and Administration & Reports and Record Keeping

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

§749.503. When must I report and document a serious incident?

§749.511. How must I document a serious incident?

Amended §749.105 clarifies that an employee must report suspected abuse, neglect, or exploitation directly to the Texas Abuse and Neglect Hotline and may not delegate this responsibility or be required to seek approval to file a report.

Amended §749.503:

- At (a)(1) clarifies that a CPA must report to CCR and the parent as soon as **possible, but no later than two hours after a child's death**;
- At (a)(4) and (a)(5), clarifies that after ensuring the safety of the child a CPA must immediately report to a parent any physical or sexual abuse committed by a child against another child;
- At (a)(6), clarifies what type of alleged criminal incident involving a child and law enforcement that a CPA must report;
- At (a)(7), indicates that a CPA must report to parents as soon as possible, but no later than 24 hours after becoming aware of a child being issued a ticket or citation but is not detained;
- At (a)(12), clarifies that after ensuring the safety of the child a CPA must immediately report to a parent a suicide attempt by a child;
- At (b), **deletes "such as a seizure" as an example** of a medically pertinent incident that does not rise to the level of a serious incident;
- At (c), clarifies that a CPA is not required to report an unauthorized absence when a child returns before the reporting time frame (note: the CPA is still required to document the serious incident);
- At (d), clarifies that a CPA must report to law enforcement any death of an adult resident, but there are no other requirements to report serious incidents of adult residents to law enforcement;
- At (e)(5), clarifies that the Child Care Investigations division of the Texas Department of Family and Protective Services investigates child abuse or neglect;
- At (e)(6) and (7), clarifies that a CPA must report to CCR and document the serious incident as soon as you become aware that law enforcement executed an arrest warrant against a staff member or a search warrant at the CPA or foster home; and
- At (e)(8), adds requirements for the CPA to report to CCR and the parents as soon as possible but no later than 24 hours after the CPA becomes aware that there is an allegation that an employee or caregiver used a prohibited emergency behavior intervention (EBI), a prohibited restraint technique, or an EBI inappropriately; and
- After the rule, **adds to a Helpful Information box a link to the Citizen's Guide for the Texas Criminal Justice Process.**

Amended §749.511 at (11) clarifies that if a child returns to the operation after the CPA has documented a serious incident report, the CPA must update the serious incident report with new information regarding the unauthorized absence and the child's return.

## Agency Staff and Caregivers

§749.635. What responsibilities must the child-placing agency administrator have?

§749.675. What are the qualifications an employee must have to perform child placement management activities?

§749.761. What are the requirements for a volunteer?

Amended §749.635 adds compliance with current heightened monitoring plans, if applicable, to the list of child-placing agency administrator responsibilities.

Amended §749.675 **clarifies the title for a “Child Protective Services caseworker with the Texas Department of Family and Protective Services” in each Option** regarding the qualifications that an employee must have to perform child placement management activities.

Amended §749.761 clarifies that a volunteer must not be required to obtain approval to report suspected abuse, neglect, or exploitation.

## Training and Professional Development

§749.801. What do certain words and terms mean in this subchapter?

§749.868. Can a child-placing agency waive pre-service training requirements for a foster parent?

§749.931. What are the annual training requirements for an employee?

§749.935. What types of hours or instruction can be used to complete the annual training requirements?

Amended §749.801:

- Deletes the terms and definitions for **“normalcy and “single source continuum contractor” since they are relocating to §749.43;**
- At (4), **clarifies that “self-instructional training” includes lessons or modules** that have questions with clear right and wrong answers; and
- At (5), **clarifies that the limits on hours of “self-study training” applies to the number of annual training hours per year.**

Amended §749.868 adds a requirement for the CPA to document any determination that a waiver of pre-service training is appropriate for a foster parent and 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.

Amended §749.931 corrects the rule to align it with HRC §42.04261 and to clarify that an executive director must annually receive training on preventing, recognizing, and reporting child abuse, neglect, and exploitation.

Amended §749.935 corrects references in subsections (a) and (d).

## Foster Care Services: Admission and Placement

§749.1113. What information must I share with the parent at the time of placement?

§749.1133. What information must an admission assessment include?

§749.1135. What are the additional admission assessment requirements when I admit a child for treatment services?

Amended §749.1113 **removes references to “sponsoring families”.**

Amended §749.1133 adds any history of trauma and **the child’s educational and behavioral level of functioning** to the list of things that an admission assessment must cover **prior to a child’s non-emergency admission.**

Amended §749.1135 clarifies that an admission assessment for a child with primary medical needs must include an evaluation by a health-care professional.

## Foster Care Services: Medical and Dental

§749.1437. How must a caregiver respond when a child is injured or ill and requires immediate treatment by a health-care professional?

§749.1469. What are the requirements for administering non-prescription medication and supplements?

New §749.1437:

- Outlines what a caregiver must do when a child is injured or ill and requires immediate treatment by a health-care professional; and
- Clarifies that a caregiver must not be required to seek approval to contact emergency services or to take the child to the nearest emergency room.

Amended §749.1469:

- At (a)(2), clarifies that an operation must ensure a non-prescription medication or supplement is not contraindicated with the medication **prescribed or the child’s medical conditions**; and
- After the rule, adds a Helpful Information box regarding medication consultations.

## Foster Care Services: Daily Care, Problem Management

§749.1801. What do certain words mean in this division?

§749.1893. What responsibilities do caregivers have for the educational needs of a child in their care?

§749.1957. What other methods of punishment are prohibited?

Amended §749.1801 adds the term and definition for **“restrictive device”**.

Amended §749.1893 clarifies that caregivers must **know the specifics of a child’s Individual Education Plan (IEP) and support the school’s efforts to implement the IEP**, if applicable.

Amended §749.1957:

- **Deletes “and verbal abuse” from subsection (4) because it is already covered under subsections (8) and (9);**
- **Deletes the examples of “soap and tape” from subsection (7) to eliminate the possible interpretation that “soap and tape” are an exhaustive list of what not to put it or on a child’s mouth as punishment;** and
- After the rule, adds a Helpful Information box that includes some examples related to subsection (7).

## Foster Care Services: Emergency Behavior Intervention

§749.2001. What do certain terms mean in this subchapter?

§749.2107. Under what conditions are PRN orders permitted for a specific child?

§749.2153. When must a caregiver release a child from an emergency behavior intervention?

§749.2281. What is the maximum length of time that an emergency behavior intervention can be administered to a child?

§749.2307. What notice must I provide to the parent when I use an emergency behavior intervention with a child in care?

§749.2383. What data must be collected?

Amended §749.2001 deletes a **“mechanical restraint” from the definition of a transitional hold**.

Amended §749.2107:

- At (a)(2), clarifies that a licensed psychiatrist or psychologist must originate the PRN order for personal restraint; and

- At (b), adds a requirement to provide the parent with a copy of the PRN order for a personal restraint or emergency medication within 72 hours of obtaining the PRN order.

Amended §749.2153:

- **Revises the heading of the figure’s second column to clarify that the caregiver must release the child “if any of the following (noted situations or actions) apply;”**
- At (1)(B), revises language to say **“the emergency situation no longer exists” instead of if “the disruptive behavior is de-escalated;” and**
- At (2)(B), clarifies that a prone or supine hold is meant to be transitional.

Amended §749.2281 clarifies that a prone or supine hold is meant to be transitional.

New §749.2307:

- Adds requirements for a CPA to notify the parent in writing as soon as possible, but no later than 72 hours after the initiation of an emergency behavior intervention with a child in care, other than a short personal restraint; and
- After the rule, adds a Helpful Information box to clarify that if an incident report has the information required by subsection (a) and constitutes what was provided to the parents, a **copy of the incident report in the child’s** record will suffice.

Amended §749.2383 clarifies that a CPA must submit aggregate numbers of emergency behavior interventions to CCR no later than 15 days after the end of each quarter.

## Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

### Fire Safety Measures

§749.2905. How often must fire and health inspections be conducted at a foster home?

Amended §749.2905:

- Removes a reference to a foster group home; and
- Clarifies that child placement staff may use the State Fire **Marshal’s checklist for foster homes, and it is current for one** year.

## Weapons, Firearms, Explosive Materials, and Projectiles

§749.2961. Are weapons, firearms, explosive materials, and projectiles permitted in a foster home?

§749.2967. May a caregiver transport a child in a vehicle where firearms, other weapons, explosive materials, or projectiles are present?

Amended §749.2961 implements HRC §42.042, which was amended by H.B. 1387, by making extensive changes to the requirements regarding the storage of weapons, firearms, explosive materials, and projectiles, including:

- Reorganizing the rule content;
- Requiring foster parents to keep weapons, firearms, explosive materials, and projectiles in locked storage when they are not in use; and
- Clarifies that a toy that explodes or shoots must be age appropriate to the child and adds a Helpful Information box after the rule to clarify that Nerf guns, water guns, or other **toys that are appropriate for children are not included as “toys that explode or shoot.”**

Amended §749.2967 implements HRC §42.042(e-2), which was amended by H.B. 1927, to allow a foster parent to transport a child in a vehicle with a handgun as long as the foster parent is not otherwise prohibited by law from carrying a handgun. The handgun is still required to be in the possession and control of the foster parent.

## Sharing a Bedroom

§749.3025. May an adult in care share a bedroom with a child in care?

§749.3027. May a child in care share a bedroom with an adult caregiver in the foster home?

§749.3029. May children of opposite genders share a bedroom?

§749.4267. May an adult in care share a bedroom with a child in care receiving trafficking victim services?



New §749.3025 replaces repealed §749.3025 with the following substantive changes:

- Adds four situations when an adult in care may share a bedroom with a child in care:
  - when they are siblings;
  - **when the adult is the child’s parent;**
  - when they are both non-ambulatory and receive treatment services for primary medical needs; and
  - when the child in care is at least 16-years old and the age difference between the child and the adult in care is not more than 24 months, which implements H.B. 700 from the 87<sup>th</sup> Texas Legislature, Regular Session, 2021, Family Code §264.1214(c);
- Clarifies that the service planning team must complete and document an assessment determining that there is no known risk to the child sharing a room with an adult by looking at **certain factors, except when the adult is the child’s parent;**
- Clarifies the factors the service planning team must assess;
- Clarifies that the adult and the child must not sleep in the same bed unless the adult is the parent and the child is between the ages of one and 10; and
- Includes an exception for traveling and camping situations.

Amended §749.3027 updates the language of the rule for better readability and understanding.

New §749.3029 contains the content from repealed §749.3029 with the following substantive additions:

- Adds siblings as an additional situation when children of opposite gender may share a bedroom;
- Clarifies that the service planning team must complete and document an assessment determining that there is no known risk to each child by looking at certain factors, except when **the older child is the younger child’s parent;** and
- Clarifies the factors the service planning team must assess.

Amended §749.4267 corrects the reference related to §749.3025 relating to an adult sharing a bedroom with a child.

## Unsafe Products

§749.3043. When is a product considered unsafe and what are a **caregiver's responsibilities regarding unsafe products in a foster home?**

New §749.3043:

- Describes an unsafe product as it is determined by the United States Consumer Product Safety Commission; and
- **Outlines the caregiver's responsibilities for ensuring there are no unsafe products at the foster home.**

## Swimming Activities

§749.3133. What are the requirements for a swimming pool at a foster home?

§749.3137. What are the child/adult ratios for swimming activities?

Amended §749.3133:

- At (c), adds a subsection to clarify that the barrier, which **includes a fence or wall, must prevent a child's unauthorized** access to a swimming pool and may not include a swimming pool cover unless it is a power safety cover that meets the specifications of the American Society for Testing Materials;
- At (d), clarifies that the back wall of a house may serve as one side of the fence or wall that encloses the pool area;
- At (e), clarifies that locks, in addition to keys, for any fence gate leading to the outdoor pool area must not be accessible to children under the age of 12 years old;
- At (f), adds a requirement for a door alarm if the home serves as one side of the fence or wall and clarifies that the door lock must only be accessible to adult and children over 12 years of age, unless there is documentation that the state or local fire authority determines that the height of the lock violates or would violate the fire code; and
- After the rule, adds further clarification to a Helpful Information box regarding subsections (c), (d), and (p).

Amended §749.3137:

- Clarifies that life jackets must be Coast Guard approved;
- At (e), requires a child under the age of 12 or a child of any age who cannot swim to wear a Coast Guard-approved life jacket when swimming in other bodies of water, such as ponds, rivers, lakes, and oceans;
- At (f), clarifies that the swimming ratios do not apply to children of any age who are participating in sprinkler play or are playing in a splash pad or wading pool that has standing water less than two feet deep; and
- Deletes references to a foster group home.

### Deletion of Foster Group Homes

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

§749.2485. What are the requirements for verifying a foster home at a residence that I own?

§749.2493. May a foster home provide day care in addition to foster care?

§749.2903. What fire safety measures are required at a foster family home not serving children receiving treatment services for primary medical needs?

§749.2904. What fire safety measures are required at a foster family home serving children receiving treatment services for primary medical needs?

§749.4155. What are the annual training requirements for caregivers and employees?

Amended §§749.305, 749.2485, 749.2493, 749.2903, 749.2904, and 749.4155 remove references to a foster group home.

Note: The following rules were repealed because they related specifically to foster group homes, which no longer exist: §§749.2471, 749.2553, 749.2563, 749.2565, 749.2566, 749.2567, and 749.2827.

### Adoption Services: Children and Birth Parents

§749.3391. What information must I compile for a child I am considering for adoptive placement?

§749.3395. What information must I provide the adoptive parents prior to or at the time of adoptive placement?

§749.3503. What are the requirements for contacting birth parents that become my clients?

Amended §749.3391 makes the rule consistent with §162.005 Texas Family Code **by clarifying that the rule does not apply to adoptions by the child's grandparent, aunt or uncle, or stepparent.**

Amended §749.3395 and §749.3503 support the changes made to §749.3391.

You may view highlighted versions of the adopted rules at [Minimum Standards | Texas Health and Human Services](#). CCR is updating the minimum standards courtesy publications and will notify you when the updates are complete.

If you have questions, please contact your CCR inspector or send an email to [RCCR Standards](#).