

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 749 MINIMUM STANDARDS FOR CHILD-PLACING AGENCIES
SUBCHAPTER C ORGANIZATION AND ADMINISTRATION
DIVISION 2 OPERATIONAL RESPONSIBILITIES AND NOTIFICATIONS

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

(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;

(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?);

(C) Open a branch office; or

(D) Change your agency's or a branch office's hours of operation;

(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 chapter (relating to What plans must I submit for Licensing's approval as part of the application process?); or

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

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

(A) You change your child-placing agency administrator;

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

(C) An individual ceases to be a controlling person at your child-placing agency; 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; 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?).

(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.

TITLE 26 HEALTH AND HUMAN SERVICES
 PART 1 HEALTH AND HUMAN SERVICES COMMISSION
 CHAPTER 749 MINIMUM STANDARDS FOR CHILD-PLACING AGENCIES
 SUBCHAPTER D REPORTS AND RECORD KEEPING
 DIVISION 1 REPORTING SERIOUS INCIDENTS AND OTHER OCCURRENCES

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

(a) You must report and document the following types of serious incidents involving a child in your care. The reports must be made to the following entities, and the reporting and documenting must be within the specified timeframes:

Figure: 26 TAC §749.503(a)

Serious Incident	(i) To Licensing? (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 your care.	(A)(i) YES. (A)(ii) As soon as possible, but no later than 2 hours after the child's death.	(B)(i) YES. (B)(ii) As soon as possible, but no later than 2 hours after the child's death.	(C)(i) YES. (C)(ii) Immediately, but no later than 1 hour after the child's death.
(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.	(B)(i) YES. (B)(ii) Immediately after ensuring the safety of the child.	(C)(i) NO. (C)(ii) Not Applicable.
(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 you plan to move the child until the investigation is complete. (A)(ii) As soon as you become aware of it.	(B)(i) YES, including whether you plan to move the child until the investigation is complete. (B)(ii) Immediately after ensuring the safety of the child.	(C)(i) NO. (C)(ii) Not applicable.

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law enforcement? (ii) If so, when?
<p>(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.</p>	<p>(A)(i) YES.</p> <p>(A)(ii) As soon as you become aware of it.</p>	<p>(B)(i) YES.</p> <p>(B)(ii) Immediately after ensuring the safety of the child.</p>	<p>(C)(i) NO.</p> <p>(C)(ii) Not applicable.</p>
<p>(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.</p>	<p>(A)(i) YES.</p> <p>(A)(ii) As soon as you become aware of it.</p>	<p>(B)(i) YES.</p> <p>(B)(ii) Immediately after ensuring the safety of the child.</p>	<p>(C)(i) NO.</p> <p>(C)(ii) Not applicable.</p>

Serious Incident	(i) To Licensing? (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 you become aware of it.	(B)(i) YES. (B)(ii) As soon as you become aware of it.	(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 you become aware of it.	(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.	(B)(i) YES. (B)(ii) Within 2 hours of notifying law enforcement.	(C)(i) YES. (C)(ii) Immediately upon determining the child is not on the premises and the child is still missing.
(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.	(B)(i) YES. (B)(ii) Within 2 hours of determining the child is not on the premises, if the child is still missing.	(C)(i) YES. (C)(ii) Within 2 hours of determining the child is not on the premises, if the child is still missing.

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law enforcement? (ii) If so, when?
(10) The unauthorized absence of a child who is 13 years old or older.	<p>(A)(i) YES.</p> <p>(A)(ii) No later than 6 hours from when the child's absence is discovered and the child is still missing.</p> <p>However, you must report the child's absence immediately if the child has previously been alleged or determined to be a trafficking victim, or you believe the child has been abducted or has no intention of returning to the foster home.</p>	<p>(B)(i) YES.</p> <p>(B)(ii) No later than 6 hours from when the child's absence is discovered and the child is still missing.</p> <p>However, you must report the child's absence immediately if the child has previously been alleged or determined to be a trafficking victim, or you believe the child has been abducted or has no intention of returning to the foster home.</p>	<p>(C)(i) YES.</p> <p>(C)(ii) No later than 6 hours from when the child's absence is discovered and the child is still missing.</p> <p>However, you must report the child's absence immediately if the child has previously been alleged or determined to be a trafficking victim, or you believe the child has been abducted or has no intention of returning to the foster home.</p>
(11) A child in your care contracts a communicable disease that the law requires you 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).	<p>(A)(i) YES, unless the information is confidential.</p> <p>(A)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease.</p>	<p>(B)(i) YES, if their child has contracted the communicable disease or has been exposed to it.</p> <p>(B)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease.</p>	<p>(C)(i) NO.</p> <p>(C)(ii) Not applicable.</p>

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law enforcement? (ii) If so, when?
(12) A suicide attempt by a child.	(A)(i) YES. (A)(ii) As soon as you become aware of the incident.	(B)(i) YES. (B)(ii) Immediately after ensuring the safety of the child.	(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, you do not have to report the incident but you 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?).

(c) If a child returns before the required reporting timeframe outlined in subsection (a)(8) – (10) of this section, you are not required to report the absence as a serious incident. Instead, you must document within 24 hours after you become aware of the unauthorized absence in the same manner as for a serious incident, as described in §749.511 of this division.

(d) If there is a serious incident involving an adult resident, you do not have to report the incident to Licensing, but you must document the incident in the same manner as a serious incident. You do have to report the incident to:

(1) Law enforcement, if there is a fatality;

(2) The parent, if the adult resident is not capable of making decisions about the resident's own care; and

(3) Adult Protective Services through the Texas Abuse and Neglect Hotline if there is reason to believe the adult resident has been abused, neglected or exploited.

(e) You must report and document the following types of serious incidents involving your agency, one of your 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 Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?
(1) Any incident that renders all or part of your agency or a foster home 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.	(B)(i) YES (B)(ii) As soon as possible, but no later than 24 hours after the incident.
(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.	(B)(i) YES (B)(ii) As soon as possible, but no later than 24 hours after the incident.
<p>(3) You must temporarily do the following to comply with a declared state of disaster under Chapter 418, Government Code:</p> <ul style="list-style-type: none"> • Move your operation to a new location that is not noted on your 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). 	<p>(A)(i) YES.</p> <p>(A)(ii) As soon as possible, but no later than 24 hours after:</p> <ul style="list-style-type: none"> • Your operation temporarily moves to a new location that is not noted on your 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. 	<p>(B)(i) YES.</p> <p>(B)(ii) As soon as possible, but no later than 24 hours after:</p> <ul style="list-style-type: none"> • Your operation temporarily moves to a new location that is not noted on your 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.

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?
(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 you become aware of the communicable disease.	(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 you become aware of the communicable disease.
(5) An allegation that a person under the auspices of your agency 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.	(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.	(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?): <ul style="list-style-type: none"> • An arrest; • An indictment; 	(A)(i) YES. (A)(ii) As soon as you become aware of the situation.	(B)(i) NO. (B)(ii) Not applicable.

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?
<ul style="list-style-type: none"> Information regarding an official compliant accepted by a county or district attorney; or An arrest warrant executed by law enforcement. 		
(8) A search warrant is executed by law enforcement at the operation or a foster home.	(A)(i) YES. (A)(ii) As soon as you become aware of the situation.	(B)(i) NO. (B)(ii) Not applicable.
(9) An allegation that an employee or caregiver: <ul style="list-style-type: none"> 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 you become aware of the incident.	(B)(i) YES. (B)(ii) As soon as possible but no later than 24 hours after you become aware of the incident.

Helpful Information

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 paragraph (e)(7), see the [Citizen's Guide for the Texas Criminal Justice Process](#) for more information on criminal matters.

TITLE 26 HEALTH AND HUMAN SERVICES
 PART 1 HEALTH AND HUMAN SERVICES COMMISSION
 CHAPTER 749 MINIMUM STANDARDS FOR CHILD-PLACING AGENCIES
 SUBCHAPTER M FOSTER HOMES: SCREENINGS AND VERIFICATIONS
 DIVISION 5 CAPACITY AND CHILD/CAREGIVER RATIO

§749.2551. What is the maximum number of children a foster family home may care for?

(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:

Figure: 26 TAC §749.2551(a)

<i>If the home cares for:</i>	<i>Then the maximum number of children the home may care for is:</i>
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.
One child or more receiving treatment services for primary medical needs	<ul style="list-style-type: none"> • 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; 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. • 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.

(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:

(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:

Figure: 26 TAC §749.2551(c)

<i>If the home cares for:</i>	<i>Then the maximum number of children the home may care for is:</i>
Any child less than five years old	Five
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.
Three or more children receiving treatment services	Four
One child or more receiving treatment services for primary medical needs	<ul style="list-style-type: none"> • 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; 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. • Foster family homes verified to provide treatment services to children with primary medical needs before January 1, 2015,

<i>If the home cares for:</i>	<i>Then the maximum number of children the home may care for is:</i>
	may continue to care for up to four children with no limitation.

(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 chapter (relating to May a foster home accept adults into the home for care?).