

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 746 MINIMUM STANDARDS FOR CHILD-CARE CENTERS
SUBCHAPTER B ADMINISTRATION AND COMMUNICATION
DIVISION 1 PERMIT HOLDER RESPONSIBILITIES

§746.201. What are my responsibilities as the permit holder?

You are responsible for:

- (1) Developing and implementing your child-care center's operational policies, which must comply with or exceed the minimum standards specified in this subchapter;
- (2) Developing written personnel policies, including job descriptions, job responsibilities, and requirements;
- (3) Making provisions for training that comply with Division 4, Subchapter D of this chapter (relating to Professional Development);
- (4) Designating a child-care center director who meets minimum standard qualifications and has daily, on-site responsibility for the operation of the child-care center;
- (5) Reporting and ensuring your employees and volunteers report suspected abuse, neglect, or exploitation directly to the Texas Department of Family and Protective Services without delegating this responsibility, as required by Texas Family Code §261.101;
- (6) Ensuring all information related to background checks is kept confidential, as required by the Human Resources Code, §40.005(d) and (e);
- (7) Ensuring parents can visit the child-care center any time during the child-care center's hours of operation to observe their child, program activities, the building, the grounds, and the equipment without having to secure prior approval;
- (8) Complying with the liability insurance requirements in this division;
- (9) Complying with the child-care licensing law found in Chapter 42 of the Human Resources Code, the applicable minimum standards, and other applicable rules in the Texas Administrative Code;
- (10) Reporting to Licensing any Department of Justice substantiated complaints related to Title III of the Americans with Disabilities Act, which applies to commercial public accommodations; and
- (11) Ensuring the total number of children in care at the center or away from the center, such as during a field trip, never exceeds the licensed capacity of the center.

Helpful Information

- *Children are at risk when adults responsible for them do not have clearly delineated roles and responsibilities, which can be identified in job descriptions and job responsibilities.*
- *Disclosure of confidential background check information is a Class A misdemeanor. Therefore, you may want to keep background check information in a location separate from other staff records. You may choose to keep the information in a locked space. However, the information must be accessible during an inspection.*
- *You are responsible for ensuring that the contact email address that is used for correspondence between your operation and Licensing, which may include background check results, is only accessible to the appropriate person(s).*

§746.203. What are the liability insurance requirements?

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; and

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

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

(a) You do not have to have liability insurance that meets the requirements of §746.203 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.

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

(a) If you do not carry liability insurance that meets the requirements of §746.203 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.

(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.

(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 parent of each child in your care, as required in §746.801(6) of this chapter (relating to What records must I keep at my child-care center?).

Helpful Information

It is important that parents both understand and acknowledge whether your center 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 regarding 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.*

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DIVISION 2 REQUIRED NOTIFICATION

§746.305. What other situations require notification to Licensing?

(a) You must notify us as soon as possible, but no later than two days after:

(1) Any occurrence that renders all or part of your center unsafe or unsanitary for a child;

(2) Injury to a child in your care that requires **medical** treatment by a health-care professional **or hospitalization**;

(3) **A child in your care shows signs or symptoms of an illness that requires hospitalization**;

(4) You become aware that an employee or child in your care contracts an illness deemed notifiable by the Texas Department of State Health Services as specified in 25 TAC Chapter 97, Subchapter A (relating to Control of Communicable Diseases);

(5) A person for **whom** you are required to request a background check under Chapter 745, Subchapter F of this title (relating to Background Checks) is arrested or charged with a crime;

(6) The occurrence of any other situation **n that** places a child at risk, such as forgetting a child in a center vehicle or on the playground or not preventing a child from wandering away from the child-care center unsupervised; and

(7) A new individual becomes a controlling person at your operation, or an individual that was previously a controlling person ceases to be a controlling person at your operation.

(b) You must notify us immediately if a child dies while in your care.

Helpful Information

- Regarding paragraph (a)(1), examples of occurrences that may render a child-care center unsafe or **unsanitary** include sewer backups, flood, fire or storm damage, or the lack of running water.
- Regarding paragraph (a)(3), this notification applies to situations where the center sends a child to the hospital for an illness. For more information on how to respond when a child in care becomes ill and requires hospitalization, see §746.3605(b).
- Notifications to Licensing may be made:
 - Online 24 hours a day at http://www.dfps.state.tx.us/Contact_Us/report_abuse.asp;
 - By phone, 24 hours a day, to the Texas Abuse and Neglect Hotline 1-800-252-5400; or
 - By speaking to a Licensing employee during business hours at the local office. Phone numbers for the local offices can be found at: <https://hhs.texas.gov/services/safety/child-care/contact-child-care-licensing>

§746.307. What emergency or medical situations must I notify parents about?

(a) You must notify the parent of a child immediately if there is an allegation that the child has been abused, neglected, or exploited, as defined in Texas Family Code §261.001, while in your care.

(b) After you ensure the safety of the child, you must notify the parent of the child immediately after the child:

(1) Is injured and the injury requires medical treatment by a health-care professional or hospitalization;

(2) Shows signs or symptoms of an illness that requires hospitalization;

(3) Has been involved in any situation that placed the child at risk. For example, a caregiver forgetting the child in a center vehicle or failing to prevent the child from wandering away from the child-care center unsupervised; or

(4) Has been involved in any situation that renders the child-care center unsafe, such as a fire, flood, or damage to the child-care center as a result of severe weather.

(c) You must notify the parent of less serious injuries when the parent picks the child up from the child-care center. Less serious injuries include minor cuts, scratches, and bites from other children requiring first-aid treatment by employees.

(d) You must provide written notice to the parent of each child attending the child-care center within 48 hours of becoming aware that a child in your care or an employee has contracted a communicable disease deemed notifiable by the Texas Department of State Health Services, as specified in 25 TAC Chapter 97, Subchapter A (relating to Control of Communicable Diseases).

(e) You must provide written notice to the parent of each child in a group within 48 hours when there is an outbreak of lice or other infestation in the group. You must either post this notice in a prominent and publicly accessible place where parents can easily view it or send an individual note to each parent.

Helpful Information

- *Communication between caregivers and parents is essential to both the safe and healthy operation of the center and to the parents' ability to assess the care their children are receiving.*
- *Regarding paragraph (a), you must notify the parent as soon as you have knowledge of the allegation, including when someone makes an allegation directly to you, when you make a report to DFPS, or when DFPS notifies you of an allegation.*
- *Regarding paragraph (b)(1), please see §746.3607 for additional requirements for how operations must respond to an injury that requires immediate medical treatment by a health-care professional.*
- *Regarding paragraph (b)(2), please see §746.3605 for additional requirements for how operations must respond when a child becomes ill while in care.*

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

(a) You must notify the parent of each child attending your child-care center of a deficiency in:

(1) A safe sleeping standard noted in subsection (b) of this section; or

(2) The abuse, neglect, or exploitation standard in §746.1201(4) of this chapter (relating to What general responsibilities do my child-care center employees have?).

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

(1) §746.2409(a)(1) of this chapter (relating to What specific safety requirements must my cribs meet?);

(2) §746.2411(2)(A) of this chapter (relating to Are play yards allowed?);

(3) §746.2415(a)(5) and (b) of this chapter (relating to What specific types of equipment am I prohibited from using with infants?);

(4) §746.2426 of this chapter (relating to May I allow infants to sleep in a restrictive device?);

(5) §746.2427 of this chapter (relating to Are infants required to sleep on their backs?);

(6) §746.2428 of this chapter (relating to May I swaddle an infant to help the infant sleep?); and

(7) §746.2429 of this chapter (relating to If an infant has difficulty falling asleep, may I cover the infant's head or crib?).

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

(a) Within five days after you receive notification of a deficiency described in §746.309 of this division (relating to What are the notification requirements when Licensing finds my center 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 attending your child-care center at the time of notification, including a child who may not have been in care on the day of the actual incident.

(b) 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.

(c) 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.

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SUBCHAPTER C RECORD KEEPING
DIVISION 2 RECORDS OF ACCIDENTS AND INCIDENTS

§746.701. What written records must I keep of accidents and incidents that occur at my child-care center?

You must record the following information on the Licensing *Incident/Illness Report Form 7239* or another form that contains at least the same information:

(1) An injury to a child in care that required medical treatment by a health-care professional or hospitalization;

(2) An illness that required the hospitalization of a child in care;

(3) An incident of a child in care or employee contracting a communicable disease deemed notifiable by the Texas Department of State Health Services, as specified in 25 TAC Chapter 97, Subchapter A (relating to Control of Communicable Diseases); and

(4) Any other situation that placed a child at risk, such as forgetting a child in a center vehicle or not preventing a child from wandering away from the child-care center unsupervised.

Helpful Information

- *The Licensing Incident/Illness Report form ensures that parents have been notified of serious incidents and illnesses that impact or may impact the health and safety their child. This includes incidents that directly involve their child, such as a serious injury, and those that have the potential to affect their child, such as another child in care or an employee contracting a communicable disease. For more information regarding notifying parents about emergency and medical situations, see §746.307.*
- *You may obtain a copy of Licensing's Incident/Illness Report form on the Licensing provider website at:*

<https://hhs.texas.gov/laws-regulations/handbooks/cclpph/forms>

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SUBCHAPTER C RECORD KEEPING
DIVISION 3 RECORDS THAT MUST BE KEPT ON FILE AT THE CHILD-CARE CENTER

§746.801. What records must I keep at my child-care center?

You must maintain and make the following records available for our review upon request, during hours of operation. Paragraphs (14), (15), and (16) of this section are optional, but if provided will allow Licensing to avoid duplicating the evaluation of standards that have been evaluated by another state agency within the past year:

(1) Children's records, as specified in Division 1 of this subchapter (relating to Records of Children);

(2) Infant feeding instructions, as required in §746.2421 of this chapter (relating to What written feeding instructions must I obtain for an infant not ready for table food?), if applicable;

(3) Personnel and training records according to Division 4 of this subchapter (relating to Personnel Records);

(4) Licensing *Child-Care Center Director's Certificate*;

(5) Attendance records or time sheets listing all days and hours worked for each employee;

(6) Proof of current liability insurance coverage or, if applicable, that you have provided written notice to the parent of each child that you do not carry the insurance;

(7) Medication records, if applicable;

(8) Playground maintenance checklists;

(9) Pet vaccination records, if applicable;

(10) Safety documentation for emergency drills, fire extinguishers, and smoke detectors;

(11) Most recent fire inspection report, including any written approval from the fire marshal to provide care above or below ground level, if applicable;

(12) Most recent sanitation inspection report;

(13) Most recent gas inspection report, if applicable;

(14) Most recent Texas Department of State Health Services immunization compliance review form, if applicable;

(15) Most recent Texas Department of Agriculture Child and Adult Care Food Program report, if applicable;

(16) Most recent local workforce board Child-Care Services Contractor inspection report, if applicable;

(17) Record of pest extermination, if applicable;

(18) Most recent **Licensing** form certifying that you have reviewed each of the bulletins and notices issued by the United States Consumer Product Safety Commission regarding unsafe children's products and that there are no unsafe children's products in use or accessible to children in the child-care center;

(19) A daily tracking system for when a child's care begins and ends, as specified in §746.631 of this **subchapter** (relating to Must I have a system for signing children in and out of my care?);

(20) Documentation for **all full-size and non-full-size cribs**, as specified in §746.2409(a)(9) of this **chapter** (relating to What specific safety requirements must my cribs meet?);

(21) Documentation for vehicles, **as** specified in §746.5627 of this **chapter** (relating to What documentation must I keep at the child-care center for each vehicle used to transport children in care?), if applicable; **and**

(22) Proof that you have notified parents in writing of deficiencies in safe sleeping and abuse, neglect, or exploitation, as specified in §746.309 of this chapter (relating to What are the notification requirements when Licensing finds my center deficient in a standard related to safe sleeping or the abuse, neglect, or exploitation of a child?) and §746.311 of this chapter (relating to How must I notify parents of a safe sleeping deficiency or an abuse, neglect, or exploitation deficiency?).

Helpful Information

- *Regarding paragraph (5), attendance records must also be kept on all substitutes, volunteers, and contractors that are regularly or frequently at the child-care center or counted in the child/caregiver ratio. For more information see §746.1401 of this **chapter** (relating to What minimum standards must substitutes, volunteers, or persons under contract with my center comply with?).*
- *Regarding paragraph (22), 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:*
 - *Keeping a copy of the notification in each child's individual file;*
 - *Keeping a single file of all notifications, with a list of the parents whom you notified attached to each notification form; or*
 - *Maintaining a copy of any notification sent to a parent electronically, including the date and address to which you sent the notification.*

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SUBCHAPTER R HEALTH PRACTICES
DIVISION 3 ILLNESS AND INJURY

§746.3605. How must caregivers respond when a child becomes ill?

(a) If a child becomes ill while in your care but does not require immediate treatment by a health-care professional or hospitalization, you must:

- (1) Contact the parent to pick up the child;
- (2) Care for the child apart from other children;
- (3) Give appropriate attention and supervision until the parent picks the child up; and
- (4) Give extra attention to hand washing and sanitation if the child has diarrhea or vomiting.

(b) If a child becomes ill while in your care and requires immediate treatment by a health-care professional or hospitalization, you must:

- (1) Contact emergency medical services (or take the child to the nearest emergency room after you have ensured the supervision of other children in the group);
- (2) Give the child first-aid treatment or CPR when needed;
- (3) Contact the child's parent;
- (4) Contact the physician or other health-care professional identified in the child's record; and
- (5) Ensure the supervision of other children in the group.

§746.3607. How must caregivers respond when a child is injured and requires immediate treatment by a health-care professional?

For an injury that requires immediate treatment by a health-care professional, you must:

- (1) Contact emergency medical services (or take the child to the nearest emergency room after you have ensured the supervision of other children in the group);
- (2) Give the child first-aid treatment or CPR when needed;
- (3) Contact the child's parent;
- (4) Contact the physician or other health-care professional identified in the child's record; and
- (5) Ensure supervision of other children in the group.