

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

§749.151. What are my operational responsibilities?

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?);

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

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

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

(5) Allow us to inspect or monitor any of your foster homes at any time;

(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;

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

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

§749.155. 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.

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

(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.

§749.159. 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 §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.

(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 parents of each child in your care.

Helpful Information

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.*

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 time frames:

Figure: 26 TAC §749.503(a)

Serious Incident	(i) To Licensing?	(i) To Parents?	(i) To Law enforcement?
	(ii) If so, when?	(ii) If so, when?	(ii) If so, when?
(1) A child dies while in your care.	(A)(i) YES (A)(ii) Within 2 hours after the child's death.	(B)(i) YES (B)(ii) Within 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
(4) Physical abuse committed by a child against another child. For the purpose of this subsection,	(A)(i) YES (A)(ii) As soon as 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

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law enforcement? (ii) If so, when?
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.			
(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 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

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, not including being issued a ticket at school by law enforcement or any other citation that does not result in the child being detained; or when law enforcement responds to an alleged incident at the foster home.	(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) 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.
(8) 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?
(9) The unauthorized absence of a child who is 13 years old 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, 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.	(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, 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.	(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, 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.
(10) A child in your care contracts a communicable disease that the law requires you to report to the 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 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.	(C)(i) NO (C)(ii) Not applicable
(11) A suicide attempt by a child.	(A)(i) YES (A)(ii) As soon as you become aware	(B)(i) YES (B)(ii) As soon as you become aware	C)(i) NO (C)(ii) Not applicable

Serious Incident	(i) To Licensing?	(i) To Parents?	(i) To Law enforcement?
	(ii) If so, when?	(ii) If so, when?	(ii) If so, when?
	of the incident.	of the incident.	

(b) If there is a medically pertinent incident, such as a seizure, 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) You must document an unauthorized absence that does not meet the reporting time requirements defined in subsection (a)(7) - (9) of this section within 24 hours after you become aware of the unauthorized absence. You must document the absence:

(1) In the same manner as for a serious incident, as described in §749.511 of this division; and

(2) Complete an addendum to the serious incident report to finalize the documentation requirements, if the child returns to a foster home after 24 hours.

(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 as outlined in the chart above;

(2) The parents, 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?	(i) To Parents?
	(ii) If so, when?	(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	(B)(i) YES (B)(ii) As soon as possible, but no later

Serious Incident	(i) To Licensing?	(i) To Parents?
	(ii) If so, when?	(ii) If so, when?
	than 24 hours after the incident.	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.
(3) An adult who has contact with a child in care contracts a communicable disease noted 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 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.
(4) 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.
(5) An investigation of abuse or neglect by an entity (other than Licensing) 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.
(6) An arrest, indictment, or a county or district attorney accepts an "Information" regarding an official complaint, against 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	(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after you become aware of the situation.	(B)(i) NO (B)(ii) Not applicable.

Serious Incident	(i) To Licensing?	(i) To Parents?
	(ii) If so, when?	(ii) If so, when?
ability to be present at an operation?); or when law enforcement responds to an alleged incident at the foster home.		

§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?

(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; 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?).

(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?

(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.

(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.

(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.

(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.

(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.

Helpful Information

- 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:
 - 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.

TITLE 26 HEALTH AND HUMAN SERVICES
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CHAPTER 749 MINIMUM STANDARDS FOR CHILD-PLACING AGENCIES
SUBCHAPTER K FOSTER CARE SERVICES: DAILY CARE, PROBLEM MANAGEMENT
DIVISION 1 ADDITIONAL REQUIREMENTS FOR INFANT CARE

§749.1817. May I allow an infant to sleep in a restrictive device?

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.

Helpful Information

- *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.*

§749.1821. May I swaddle an infant to help the infant sleep?

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.

Helpful Information

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](#).