

Minimum Standards for Shelter Care

Child Care Regulation



TEXAS
Health and Human
Services

Texas Health and Human
Services Commission

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Introduction

Minimum Standards

The 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 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 minimum 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 public 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 and rules 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 and rules which can be cited as a deficiency are weighted. For example, the minimum standard prohibiting physical discipline is weighed but 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 law 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 an operation's ability to comply with the standards, rules, and law.**

During any inspection, if we find that your operation does not meet minimum standards, rule, or law, the deficiencies are discussed with the person in charge at the time of the inspection. You will be given an opportunity to correct deficiencies within a specified period of time. If you have questions 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 must investigate the report, notify you of the investigation, and provide a written report to you of the investigation results within prescribed time frames.

When a report alleges abuse, neglect, or exploitation, the Department of Family and Protective Services 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, where you are given an opportunity to show compliance with applicable minimum standard, rule, law, permit restriction(s) and/or permit condition(s).

Appeals

You may request an appeal hearing on a CCR decision to deny an application, revoke, or suspend a permit or a condition placed on the permit after 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**. **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, Definitions and Services

§743.1. What do certain pronouns mean as used in this chapter?

Subchapter A, Definitions and Services

September 2010

The following words have the following meanings when used in this chapter:

- (1) I, my, you, and your – An applicant or permit holder, unless otherwise stated.
- (2) We, us, our, and Licensing – The Licensing Division of the Department of Family and Protective Services (DFPS).

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

Subchapter A, Definitions and Services

March 2012

The following words have the following meanings in this chapter:

- (1) Caregiver – A person counted in the child/caregiver ratio whose duties include direct care, supervision, guidance, and protection of a child in your care. Caregivers may be employees, contractors, or volunteers.
- (2) Child – A child 13 years old or younger who is in your care.
- (3) Infant – A child in your care from birth through 17 months.
- (4) Primary Caregiver – A caregiver that is also responsible for being available to other caregivers during any child-care hours of operation and for ensuring that all children in care are adequately supervised per §743.109 of this title (relating to How many caregivers are required?).
- (5) Resident – An adult resident of your operation.
- (6) Supplemental caregiver – A person who is not counted in the child/caregiver ratio but provides direct care, supervision, guidance, or protection of a child in your care.

§743.5. What child care is regulated under this chapter?

Subchapter A, Definitions and Services

September 2010

(a) Child care is regulated under this chapter if it is provided:

(1) At a temporary shelter, such as a family violence or homeless shelter;

(2) Only for children temporarily residing with a parent at the shelter;

(3) **While the child's resident** parent is away from the shelter;

(4) On a recurring and scheduled basis; and

(5) For at least four hours per day and three or more days per week.

(b) If you also offer care for the children of employees, the children of non-resident clients, or any other non-resident children, your entire child-care program is regulated as a child-care center and must follow the requirements in Chapter 746 of this title (relating to Minimum Standards for Child-Care Centers).

(c) If you only offer care for children while the resident parent is on the shelter premises, then the program is exempt from regulation. If you provide care for both children whose parents are on the premises and children whose parents are away from the shelter, all of the child care is regulated under this chapter unless the two groups of children are separated.

Technical Assistance

Occasional care, offered on an emergency basis only, is not subject to regulation. Per §745.37 Shelter Care is regulated when seven or more children are in care.

§743.7. What are my operational responsibilities?

Subchapter A, Definitions and Services

March 2012

You must:

- (1) Provide the location of your operation, so that we may conduct inspections and investigations [Medium High], by giving us:
 - (A) Your location address; or
 - (B) A method to immediately contact your operation that allows our staff to obtain your location address within 30 minutes;
- (2) Provide in writing to Licensing any change in location of the shelter care operation, or change in the method to contact your operation for location purposes, at least 30 days before the change occurs [Medium];
- (3) Provide in writing to Licensing any changes to your correspondence address or telephone number before the change occurs [Medium High];
- (4) Allow us to inspect your operation during its hours of operation, as outlined in §745.8407(6) of this title (relating to When will Licensing inspect and/or investigate an operation?) [Medium High];
- (5) Post at your operation the:
 - (A) Permit we issue you [Medium]; and
 - (B) Licensing notice Keeping Children Safe [Medium];
- (6) Observe the conditions and restrictions of your permit [High];
- (7) Maintain true, current, accurate, and complete records at your operation for us to review, as required by this chapter and any other applicable law or rule [Medium]; and
- (8) Comply with the applicable Child Care Licensing laws found in Chapter 42 of the Human Resources Code, the applicable minimum standards, and other applicable law and rule. [Medium High]

Technical Assistance

If you are a family violence shelter, follow (1)(A) of this rule if your shelter has completed the process set forth in the Family Violence Prevention Services Act (FVPSA) to become a public location. If you have not completed this process, follow (1)(B) of this rule.

§743.9. If residents provide care for other **residents' children, is this subject to regulation?**

Subchapter A, Definitions and Services

September 2010

Residents providing care for the children of other residents are not regulated by Licensing.

Technical Assistances

Licensing recommends that:

- A **resident providing child care for another resident's child(ren) not care for more than four children under 13 years old, including her own children and the unrelated children.**
- A resident, who has four or more of her own children ages 13 years old or younger, **not care for another resident's children at any time.**
- In establishing your guidelines for residents providing care for the children of other residents, consider the additional stress this may create for the mother providing the care and her own children.

Subchapter B, Personnel and Training

§743.101. What are the minimum qualifications?

Subchapter B, Personnel and Training

September 2010

(a) Primary caregivers must:

- (1) Be at least 18 years of age [Medium];
- (2) Have a high school diploma or its equivalent [Medium High]; and
- (3) Meet the background check requirements in this subchapter [High].

(b) Caregivers must:

- (1) Be at least 14 years of age and at least two years older than the oldest child in their care [Medium High]; and
- (2) Meet the background check requirements in this subchapter. [High]

(c) Supplemental caregivers must meet the background check requirements in this subchapter. [High]

§743.103. What training is required?

Subchapter B, Personnel and Training

September 2010

- (a) Within 30 days after beginning duties, primary caregivers, caregivers, and supplemental caregivers must complete the following training [Medium High]:
 - (1) A presentation on your applicable operational policies, including discipline [Medium High];
 - (2) An overview of signs of child abuse, neglect, and sexual abuse and the responsibility for reporting these [Medium];
 - (3) Emergency procedures, including fire, severe weather, volatile person on the premises, and severe injury or illness of a child [Medium High];
 - (4) Prevention and spread of communicable disease [Medium]; and
 - (5) The use and location of fire extinguishers and first-aid equipment. [Medium High]
- (b) Primary caregivers must, within 30 days after hire and annually thereafter, have at least one hour of training regarding the following topics [Medium High]:
 - (1) Recognizing and preventing shaken baby syndrome [Medium High];
 - (2) Preventing sudden infant death syndrome [Medium High]; and
 - (3) Understanding early childhood brain development. [Medium High]
- (c) Each year, primary caregivers must obtain at least 15 clock hours of training relevant to child care, such as child development. [Low]
- (d) At all times, at least one caregiver counted in the child-to-caregiver ratio must have CPR certification. [Medium]
- (e) At all times, at least one caregiver counted in the child-to-caregiver ratio must have first-aid certification. [Low]

§743.105. What are the background check requirements?

Subchapter B, Personnel and Training

January 2016

- (a) Shelter care operations must comply with the background check requirements found in Subchapter F of Chapter 745 of Title 40 (relating to Background Checks).
- (b) You do not have to submit a request for a background check on a person 14 years of age or older who resides at the shelter, as required by §745.605(a)(6)(A) of Title 40 (relating to For whom must I submit requests for background checks?), unless the person is otherwise required to have a background check under §745.605(a). For example, you must request a background check for a person who resides at the shelter if the person is a caregiver at the operation.

§743.107. What personnel records are required?

Subchapter B, Personnel and Training

March 2012

For primary caregivers, caregivers, and supplemental caregivers, you must have a record at the operation that includes at least:

- (1) Proof that the person meets the age and education requirements in §743.101 of this title (relating to What are the minimum qualifications?) [Medium];
- (2) Proof of required background check(s) [High]; and
- (3) Documentation that training requirements have been met. [Medium]

§743.109. How many caregivers are required?

Subchapter B, Personnel and Training

March 2012

- (a) At least one primary caregiver must be on duty and available to other caregivers during all child-care hours of operation. [Medium High]
- (b) Each primary caregiver or caregiver may not be responsible for more than 12 children five years old or younger. Children under one year old count as two children. [Medium High]
- (c) Each primary caregiver or caregiver may not be responsible for more than 28 children six years old and older. [Medium High]
- (d) When age groups are mixed, there must be at least one primary caregiver or caregiver per 20 children, with no more than 12 children in the group five years old or younger. [Medium High]
- (e) The primary caregiver is responsible for ensuring that all children in care are adequately supervised. [Medium High]
- (f) If a child is attending a therapeutic activity, which the child would attend whether or not he was in your child-care program, the child is not considered to be in the child-care program for the duration of the therapeutic activity.
- (g) If a child is attending an activity sponsored by a volunteer organization, which the child would attend whether or not he was in your child-care program, the child is not considered to be in the child-care program for the duration of the activity sponsored by the volunteer organization.

Subchapter C, Serious Incident Reporting

§743.201. When must I report a serious incident to Licensing?

Subchapter C, Serious Incident Reporting

March 2012

(a) You must report the following types of serious incidents if they occur when the child is in your child-care program. The reports must be made to the following entities, and the reporting must be within the specified time frames:

<p> (i) To Licensing? (ii) If so, when? </p>	<p> (i) To Parents? (ii) If so, when? </p>	<p> (i) To Law enforcement? (ii) If so, when? </p>	
<p> (1) A child dies while in your care. [High] </p>	<p> (A)(i) YES (A)(ii) Report as soon as possible, but no later than 24 hours after the incident or occurrence. </p>	<p> (B)(i) YES (B)(ii) Immediately. </p>	<p> (C)(i) YES (C)(ii) Immediately. </p>
<p> (2) A critical injury or illness that warrants treatment by a medical professional or hospitalization, including dislocated, fractured, or broken bones; concussions; lacerations requiring stitches; second and third degree burns; and damage to internal organs. [High] </p>	<p> (A)(i) YES (A)(ii) Report as soon as possible, but no later than 24 hours after the incident or occurrence. </p>	<p> (B)(i) YES (B)(ii) Report as soon as possible, but no later than 24 hours after the incident or occurrence. </p>	<p> (C)(i) NO (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?
(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. [High]	(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.
(4) A lost or missing child. [High]	(A)(i) YES (A)(ii) As soon as you become aware that the child is lost or missing.	(B)(i) YES (B)(ii) As soon as you become aware that the child is lost or missing.	(C)(i) NO (C)(ii) Not applicable.
(5) 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. [High]	(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.

 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 suicide attempt by a child. [High]	(A)(i) YES (A)(ii) As soon as you become aware of the incident.	(B)(i) YES (B)(ii) As soon as you become aware of the incident.	(C)(i) NO (C)(ii) Not applicable.

(b) You must report the following types of serious incidents involving your operation or an employee to the following entities within the specified time frame:

 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 operation unsafe or unsanitary for a child, such as a fire or a flood. [High]	(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 your operation to close. [High]	(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.

 Technical Assistance
Family violence shelters must make all serious incident reports required by this rule, but may need to consider how to do so while also maintaining compliance with federal laws such as the Family Violence Prevention Services Act (FVPSA). Confidentiality of family violence victims will be maintained by Licensing per the rules in TAC Chapter 745, Subchapter K (Inspections and Investigations), Division 3 (Confidentiality).

§743.203. What are my responsibilities regarding the report of abuse, neglect, or exploitation?

Subchapter C, Serious Incident Reporting

September 2010

In addition to reporting serious incidents, you must inform your employees of the duty to report suspected abuse, neglect, or exploitation as required by the Texas Family Code, §261.101.

[High]

Subchapter D, Safety Practices

§743.301. What are the requirements if my operation chooses to maintain and administer unassigned epinephrine auto-injectors?

Subchapter D, Safety Practices

October 2021

If your operation maintains and administers unassigned epinephrine auto-injectors to use when a child in care has an emergency anaphylaxis reaction, you must:

- (1) Adopt and implement a written policy that complies with the unassigned epinephrine auto-injector requirements set by the Texas Department of State Health Services, as specified in 25 TAC Chapter 40, Subchapter C (relating to Epinephrine Auto-Injector Policies in Youth Facilities) and Texas Health and Safety Code §773.0145 [High]; and
- (2) **Notify the child's parent, immediately after ensuring the safety of the child, if the child has had an emergency anaphylaxis reaction that required administration of an unassigned epinephrine auto-injector.** [High]

Technical Assistance

DSHS requirements for the maintenance and administration of unassigned epinephrine auto-injectors include requirements for:

- Training;
- Storage;
- Administration;
- Disposal;
- Reporting; and
- Parental notification of policies.

You can find more information about these requirements, as well as definitions pertaining to anaphylaxis, at [Allergies and Anaphylaxis](#), [Epinephrine Auto-Injector Policies in Youth Facilities](#) and the [CCR Technical Assistance Library](#).

Appendix I: Definitions

Texas Administrative Code, Title 40 Social Services and Assistance Part 19, Texas

Department of Family and Protective Services

Chapter 745, Licensing Subchapter A. Precedence and Definitions

Division 3. Definitions for Licensing

§745.21. What words must I know to understand this subchapter?

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, §261.401(1) (relating to Agency Investigation) and §745.8557 of this title (relating to What is abuse?).
- (2) Affinity – Related by marriage as set forth in the Government Code, §573.024 (relating to Determination of Affinity).
- (3) Capacity – The maximum number of children that a permit holder may care for at one time.
- (4) Caregiver – A person whose duties include the supervision, guidance, and protection of a child or children.
- (5) Child – A person under 18 years old.
- (6) Child-care facility – An establishment subject to regulation by Licensing which 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, or employer-based child care.
- (7) Child day care – As defined in §745.33 of this title (relating to What is child day care?).
- (8) Child-placing agency (CPA) – A person, including an organization, 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.
- (9) 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.

- (10) 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 considered to be related by consanguinity for this purpose. Consanguinity is defined in the Government Code, §573.022 (relating to Determination of Consanguinity).
- (11) Contiguous operations – Two or more operations that touch at a point on a common border or located in the same building.
- (12) Controlling person – As defined in §745.901 of this title (relating to Who is a controlling person at a child-care operation?).
- (13) Deficiency – Any failure to comply with a standard, rule, law, specific term of your permit, or condition of your evaluation, probation, or suspension.
- (14) Designated perpetrator – As defined in §745.731 of this title (relating to What are designated perpetrators and sustained perpetrators of child abuse or neglect?).
- (15) Division – The Regulation Division within the Texas Health and Human Services Commission (HHSC).
- (16) Employee – Any person employed by or that contracts with the permit holder, including but not limited to caregivers, drivers, kitchen personnel, maintenance and administrative personnel, and the center/program director.
- (17) Endanger – To expose a child to a situation where physical or mental injury to a child is likely to occur.
- (18) Exploitation – As defined in the Texas Family Code, §261.401(2) (relating to Agency Investigation).
- (19) Finding – The conclusion of an investigation or inspection indicating compliance or deficiency with one or more minimum standards or laws.
- (20) Governing body – The entity with ultimate authority and responsibility for the operation.
- (21) Governing body designee – The person named on the application as the designated representative of a governing body who is officially authorized by the governing body to speak for and act on its behalf in a specified capacity.
- (22) Household member – An individual, other than the caregiver(s), who resides in an operation.
- (23) Kindergarten age – As defined in §745.101(1) of this title (relating to What words must I know to understand this subchapter?).
- (24) Licensed administrator – As defined in §745.8905 of this title (relating to What is a licensed administrator?).
- (25) Military service member – A person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.
- (26) Military spouse – A person married to a military service member who is currently on active duty.

- (27) Military veteran – A person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.
- (28) Minimum standards – The rules contained in Chapters 743 of this title (relating to Minimum Standards for Shelter Care), 744 of this title (relating to Minimum Standards for School-Age and Before or After-School Programs), 746 of this title (relating to Minimum Standards for Child-Care Centers), 747 of this title (relating to Minimum Standards for Child-Care Homes), 748 of this title (relating to General Residential Operations), 749 of this title (relating to Child-Placing Agencies), 750 of this title (relating to Independent Foster Homes), and Division 11 (relating to Employer-Based Child Care) of Subchapter D of this chapter (relating to Application Process), which are minimum requirements for permit holders that are enforced by HHSC to protect the health, safety and well-being of children.
- (29) Neglect – As defined in the Texas Family Code, §261.401(3) (relating to Agency Investigation) and §745.8559 of this title (relating to What is neglect?).
- (30) Operation – **A person or entity offering a program that may be subject to Licensing’s** regulation. 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, or employer-based child care.
- (31) Parent – A person that has legal responsibility for or legal custody of a child, including the managing conservator or legal guardian.
- (32) Permit – A license, certification, registration, listing, compliance certificate, or any other written authorization granted by Licensing to operate a child-care facility, child-placing agency, listed family home, or employer-based child care. This also **includes an administrator’s license.**
- (33) Permit holder – The person or entity granted the permit.
- (34) Pre-kindergarten age – As defined in §745.101(2) of this title (relating to What words must I know to understand this subchapter?).
- (35) Program – Activities and services provided by an operation.
- (36) Regulation – The enforcement of statutes and the development and enforcement of rules, including minimum standards. Regulation includes the licensing, certifying (both state run and employer-based operations), registering, and listing of an operation or the licensing of an administrator.
- (37) Report – An expression of dissatisfaction or concern about an operation, made known to DFPS staff, that alleges a possible violation of minimum standards or the law and involves risk to a child/children in care.
- (38) Residential child care – As defined in §745.35 of this title (relating to What is residential child care?).
- (39) State Office of Administrative Hearings (SOAH) – See §745.8831 and

- (40) §745.8833 of this title (relating to What is a due process hearing? and What is the purpose of a due process hearing?).
- (41) Sustained perpetrator – See §745.731 of this title (relating to What are designated perpetrators and sustained perpetrators of child abuse or neglect?).

Appendix II: Definitions of Abuse, Neglect, Exploitation

Texas Family Code Title 5, The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship

Subtitle E, Protection of the Child Chapter 261, Investigation of Report of Child Abuse or Neglect

Subchapter E, Investigations of Abuse, Neglect, or Exploitation in Certain Facilities

Sec. 261.401. AGENCY INVESTIGATION.

(a) Notwithstanding Section 261.001, in this section:

- (1) **"Abuse"** means an intentional, knowing, or reckless act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program that causes or may cause emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.
- (2) **"Exploitation"** means the illegal or improper use of a child or of the resources of a child for monetary or personal benefit, profit, or gain by an employee, volunteer, or other individual working under the auspices of a facility or program as further described by rule or policy.
- (3) **"Neglect"** means a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.

(b) Except as provided by Section 261.404, a state agency that operates, licenses, certifies, registers, or lists a facility in which children are located or provides oversight of a program that serves children shall make a prompt, thorough investigation of a report that a child has been or may be abused, neglected, or exploited in the facility or program. The primary purpose of the investigation shall be the protection of the child.

- (c) A state agency shall adopt rules relating to the investigation and resolution of reports received as provided by this subchapter. The Health and Human Services Commission shall review and approve the rules of agencies other than the Texas Department of Criminal Justice, Texas Youth Commission, or Texas Juvenile Probation Commission to ensure that those agencies implement appropriate standards for the conduct of investigations and that uniformity exists among agencies in the investigation and resolution of reports.
- (d) The Texas School for the Blind and Visually Impaired and the Texas School for the Deaf shall adopt policies relating to the investigation and resolution of reports received as provided by this subchapter. The Health and Human Services Commission shall review and approve the policies to ensure that the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf adopt those policies in a manner consistent with the minimum standards adopted by the Health and Human Services Commission under Section 261.407.

Index

background checks

Requirements – *See Rule 743.105*

caregiver

qualifications – *See Rule 743.101*

notification

what must be reported to law enforcement – *See Rule 743.201*
what must be reported to Licensing – *See Rules 743.201, 743.203*
what must be reported to parents – *See Rule 743.201*

posting requirements – *See Rule 743.7*

records

personnel – *See Rule 743.107*

responsibilities

operational – *See Rule 743.7*

training

annual clock hours – *See Rule 743.103*

caregiver requirements – *See Rule 743.103*

first aid and CPR requirements – *See Rule 743.103*