Minimum Standards

For

Child-Placing Agencies

Condensed Version For

Foster Parents

December 2014

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Texas Department of Family and Protective Services
Licensing Division

INTRODUCTION

Minimum Standards

These minimum standards are developed by the Texas Department of Family and Protective Services (DFPS) with the assistance of child-care operations, parents, lawyers, doctors, and other experts in a variety of fields. The department considers recommendations from interested persons or groups in formulating the final draft, which is filed as rules with the Secretary of State. Standards are a product of contributions from many people and groups and thus reflect what the citizens of Texas consider reasonable and minimum.

The minimum standards are weighted based on risk to children. The weights are: high, medium-high, medium, medium-low, and low. While weights reflect a common understanding of the risk to children presented if a rule is violated, the assigned weights do not change based on the scope or severity of an actual deficiency. Scope and severity are assessed by the Licensing Representative, documented, and considered in conjunction with the standard weights when making Licensing decisions. *Weights are noted in green next to each standard or subsection. Only those standards which can be violated are weighted. For example, definitions are not weighted.*

Agency Home Visits by Child Care Licensing

Child Care Licensing visits one-third of agency foster homes each year. A random sample of agency foster homes is chosen for visitation. A foster home is notified in advance that Licensing plans to visit, and an appointment for the visit is made. During the visit, Licensing staff interview at least one foster parent, interview at least one foster child, and make an inspection of the home to check for any obvious health or safety hazards. Licensing staff inform the foster parents immediately of any health or safety hazards in the home, and inform the child-placing agency within 24 hours of finding health or safety hazards in the home. Foster parents have the option to send Licensing a feedback form after a Licensing visit. The majority of foster parents report that the Licensing visits are helpful, positive experiences.

PLEASE NOTE:

This is a condensed version of the Child-Placing Agency minimum standards.

Only the minimum standards most important for foster parents have been included.

A full version of the child-placing agency minimum standards can be obtained from any Residential Child Care Licensing office or the DFPS web site at www.dfps.state.tx.us.

PLEASE NOTE:

Anywhere this document refers to "I, my, you, your," it is referring to a child-placing agency, NOT the foster parents. Foster parents are generally referred to as caregivers in this document.

Omitted from this publication:

Subchapter A, Purpose and Scope

Subchapter B, Definitions and Services

Division 1, Definitions

§749.41. What do certain pronouns mean in this chapter?

January 2007

(no weight) The following words have the following meanings 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).

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

December 2014

(no weight) The words and terms used in this chapter have the meanings assigned to them under §745.21 of this title (relating to What do the following words and terms mean when used in this chapter?), unless another meaning is assigned in this section or unless the context clearly indicates otherwise. The following words and terms have the following meanings unless the context clearly indicates otherwise:

(1) Accredited college or university – An institution of higher education accredited by one of the following:

(A) Southern Association of Colleges and Schools, Commission on Colleges;

(B) Middle States Association of Colleges and Schools, Commission on Higher Education;

(C) New England Association of Schools and Colleges, Commission on Institutions of Higher Education;

(D) North Central Association of Colleges and Schools, The Higher Learning Commission;

(E) Northwest Commission on Colleges and Universities;

(F) Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities; or

(G) Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges.

(2) Activity space – An area or room used for child activities.

(continued)

(3) Adaptive functioning – Refers to how effectively a person copes with common life demands and how well the person meets standards of personal independence expected of someone in his particular age group, socio-cultural background, and community setting.

(4) Adoption record – *Omitted from this publication*.

(5) Adoptive home screening – *Omitted from this publication*.

(6) Adult – A person 18 years old or older.

(7) Babysitting – Temporarily caring for a child in foster care for no more than 12 consecutive hours.

(8) Caregiver – A caregiver:

(A) Is a person counted in the child/caregiver ratio for foster care services, including employees, foster parents, contract service providers, and volunteers, whose duties include direct care, supervision, guidance, and protection of a child in care. This includes any person that is solely responsible for a child in foster care. For example, a child-placement staff that takes a foster child on an appointment or doctor's visit is considered a caregiver.

(B) Does not include babysitters, overnight care providers, or respite child-care providers unless they are:

(i) Verified foster parents;

(ii) Licensed foster parents; or

(iii) Agency employees.

(C) Does not include a contract service provider who:

(i) Provides a specific type of service to your agency for a limited number of hours per week or month; or

(ii) Works with one particular child.

(9) Certified fire inspector – Person certified by the Texas Commission on Fire Protection to conduct fire inspections.

(10) Child/caregiver ratio – The maximum number of children for whom one caregiver can be responsible.

(11) Child in care – A child who has been placed by a child-placing agency in a foster or adoptive home, regardless of whether the child is temporarily away from the home, as in the case of a child at school or at work or receiving respite child-care services. Unless a child has been discharged from the child-placing agency, the child is considered a child in care.

(continued)

(12) Child passenger safety seat system – An infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.

(13) Counseling – A procedure used by professionals from various disciplines in guiding individuals, families, groups, and communities by such activities as delineating alternatives, helping to articulate goals, processing feelings and options, and providing needed information. This definition does not include career counseling.

(14) Days – Calendar days, unless otherwise stated.

(15) De-escalation – Strategies used to defuse a volatile situation, to assist a child to regain behavioral control, and to avoid a physical restraint or other behavioral intervention.

(16) Department – The Department of Family and Protective Services (DFPS).

(17) Discipline – A form of guidance that is constructive or educational in nature and appropriate to the child's age, development, situation, and severity of the behavior.

(18) Disinfecting solution – A disinfecting solution may be:

(A) A self-made solution, prepared as follows:

(i) One tablespoon of regular strength liquid household bleach to each gallon of water used for disinfecting such items as toys, eating utensils, and nonporous surfaces (such as tile, metal, and hard plastics); or

(ii) One-fourth cup of regular strength liquid household bleach to each gallon of water used for disinfecting surfaces such as bathrooms, crib rails, diaper-changing tables, and porous surfaces, such as wood, rubber or soft plastics; or

(B) A commercial product that is registered with the Environmental Protection Agency (EPA) as an antimicrobial product and includes directions for use in a hospital as a disinfectant. You must use the product according to label directions. Commercial products must not be toxic on surfaces likely to be mouthed by children, like crib rails and toys.

(19) Emergency Behavior Intervention – Interventions used in an emergency situation, including personal restraints, mechanical restraints, emergency medication, and seclusion.

(20) Family applicants – All residents, part- or full-time, of a household that are being considered for verification as an agency foster home or approved as an adoptive home.

(continued)

(21) Family members – An individual related to another individual within the third degree of consanguinity or affinity. For the definitions of consanguinity and affinity, see Chapter 745 of this title (relating to Licensing). The degree of the relationship is computed as described in Government Code, §573.023 (relating to Computation of Degree of Consanguinity) and §573.025 (relating to Computation of Degree of Affinity).

(22) Food service – The preparation or serving of meals or snacks.

(23) Foster family home – A home that is the primary residence of the foster parent(s) and provides care for six or fewer children or young adults, under the regulation of a child-placing agency.

(24) Foster group home – An operation verified:

(A) After January 2007, that is the primary residence of the foster parent(s) and provides care for seven to 12 children or young adults, under the regulation of a child-placing agency; or

(B) Prior to January 2007, that provides care for seven to 12 children or young adults, under the regulation of a child-placing agency.

(25) Foster home – As referred to in this chapter means both types of homes, foster family homes and foster group homes.

(26) Foster home screening – A written evaluation, prior to the placement of a child in a foster home, of the:

(A) Prospective foster parent(s);

(B) Family of the prospective foster parent(s); and

(C) Environment of the foster parent(s) and their family in relation to their ability to meet the child's needs.

(27) Foster parent – A person who provides foster care services in the foster home.

(28) Full-time – At least 30 hours per week.

(29) Garbage – Food or items that when deteriorating cause offensive odors and/or attract rodents, insects, and other pests.

(30) Health-care professional – A licensed physician, advanced practice registered nurse, physician's assistant, licensed vocational nurse (LVN), registered nurse (RN), or other licensed medical personnel providing health care to the child within the scope of the person's license. This does not include medical doctors or medical personnel not licensed to practice in the United States.

(continued)

(31) High-risk behavior -- Behavior of a child that creates an immediate safety risk to the child or others. Examples of high-risk behavior include suicide attempt, self-abuse, aggression causing bodily injury, chronic running away, drug addiction, fire-setting, and sexual perpetration.

(32) Human services field – *Omitted from this publication*.

(33) Immediate danger – A situation where a prudent person would conclude that bodily harm would occur if there were no immediate interventions. Immediate danger includes a serious risk of suicide, serious physical injury, or the probability of bodily harm resulting from a child running away if less than 10 years old chronologically or developmentally. Immediate danger does not include:

(A) Harm that might occur over time or at a later time; or

(B) Verbal threats or verbal attacks.

(34) Infant – A child from birth through 17 months.

(35) Livestock – An animal raised for human consumption or an equine animal.

(36) Living quarters – A structure or part of a structure where a group of children reside, such as a building, house, cottage, or unit.

(37) Long-term placement – A placement intended to last for more than 90 days.

(38) Master record – The compilation of all required records for a specific person or home, such as a master personnel record, master case record for a child, or a master case record for a foster or adoptive home.

(39) Non-ambulatory – A child that is only able to move from place to place with assistance, such as a walker, crutches, a wheelchair, or prosthetic leg.

(40) Non-mobile – A child that is not able to move from place to place, even with assistance.

(41) Normalcy – The ability of a child in care to live as normal a life as possible, including:

(A) Having normal interaction and experiences within a foster family and participating in foster family activities; and

(B) Engaging in age and developmentally appropriate childhood activities, such as extracurricular activities, social activities in and out of school, and employment opportunities.

(42) Overnight care – Temporary care provided for a child in foster care by someone other than the foster parents with whom the child is placed for more than 12 consecutive hours, but no more than 72 consecutive hours.

(continued)

(43) Parent -- A person who hat has legal responsibility for or legal custody of a child, including the managing conservator or legal guardian.

(44) Person legally authorized to give consent – The person legally authorized to give consent by the Texas Family Code or a person authorized by the court.

(45) Physical force – Pressure applied to a child's body that reduces or eliminates the child's ability to move freely.

(46) Post-adoptive services – *Omitted from this publication*.

(47) Post-placement report – *Omitted from this publication*.

(48) Pre-adoptive home screening – *Omitted from this publication*.

(49) PRN – A standing order or prescription that applies "pro re nata" or "as needed according to circumstances."

(50) Professional service provider – Refers to:

(A) A child placement management staff or person qualified to assist in child placing activity;

(B) A psychiatrist licensed by the Texas State Board of Medical Examiners;

(C) A psychologist licensed by the Texas State Board of Examiners of Psychologists;

(D) A master's level social worker or higher licensed by the Texas State Board of Social Work Examiners;

(E) A professional counselor licensed by the Texas State Board of Examiners of Professional Counselors;

(F) A marriage and family therapist licensed by the Texas State Board of Examiners of Marriage and Family Therapists;

(G) A master's level or higher nurse licensed as an Advanced Practice Registered Nurse by the Texas Board of Nursing and board certified in Psychiatric/Mental Health; and

(H) Other professional employees in fields such as drug counseling, nursing, special education, vocational counseling, pastoral counseling, and education who may be included in the professional staffing plan for your agency that provides treatment services if the professional's responsibilities are appropriate to the scope of the agency's program description. These professionals must have the minimum qualifications generally recognized in the professional's area of specialization.

(51) Re-evaluation – Includes an assessment of all factors required for the initial evaluation only for the purpose of determining if any substantive changes have occurred. If substantive changes have occurred, these areas must be fully evaluated.

(52) Regularly – On a recurring, scheduled basis.

(53) Sanitize – A four-step process that must be followed in the subsequent order:

(A) Washing with water and soap;

(B) Rinsing with clear water;

(C) Soaking in or spraying on a disinfecting solution for at least two minutes. Rinsing with cool water only those items that a child is likely to place in his mouth; and

(D) Allowing the surface or article to air-dry.

(54) School-age child – A child who is five years old or older and who will attend school in August or September of that year.

(55) Seat belt – A lap belt and any shoulder strap included as original equipment on or added to a motor vehicle.

(56) Service plan – A plan that identifies a child's basic and specific needs and how those needs will be met.

(57) State or local fire inspector – A fire official designated by the city, county, or state government.

(58) State or local sanitation official – A sanitation official who is authorized to conduct environmental sanitation inspections on behalf of the city, county, or state government.

(59) Substantial bodily harm – Physical injury serious enough that a prudent person would conclude that the injury required professional medical attention. It does not include minor bruising, the risk of minor bruising, or similar forms of minor bodily harm that will resolve healthily without professional medical attention.

(60) Toddler – A child from 18 months through 35 months old.

(61) Trafficking victim – A child who has been recruited, harbored, transported, provided or obtained for the purpose of forced labor or commercial sexual activity, including any child subjected to an act or practice as specified in Penal Code §20A.02 or §20A.03.

(62) Trauma informed care (TIC) – Care for children that is child-centered and considers the unique culture, experiences, and beliefs of the child. TIC takes into consideration:

(A) The impact that traumatic experiences have on the lives of children;

(B) The symptoms of childhood trauma;

(C) An understanding of a child's personal trauma history;

(D) The recognition of a child's trauma triggers; and

(E) Methods of responding that improve a child's ability to trust, to feel safe, and to adapt to changes in the child's environment.

(63) Treatment director – The person responsible for the overall treatment program providing treatment services. A treatment director may have other responsibilities and may designate treatment director responsibilities to other qualified persons.

(64) Universal precautions – An approach to infection control where all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other blood-borne pathogens.

(65) Unsupervised activity – When a child in care participates in an activity away from the foster home and caregivers.

(66) Volunteer – A person who provides:

(A) Child-care services, treatment services, or programmatic services under the auspices of the agency without monetary compensation, including a "sponsoring family;" or

(B) Any type of services under the auspices of the agency without monetary compensation when the person has unsupervised access to a child in care.

(67) Water activities – Activities related to the use of splashing pools, wading pools, swimming pools, or other bodies of water.

(68) Young adult – An adult whose chronological age is between 18 and 22 years, who is currently in a residential child-care operation, and who continues to need child-care services.

Division 2, Services

§749.61. What types of services does Licensing regulate?

December 2014

(no weight) We regulate the following types of services:

(1) Child-Care Services – Services that meet a child's basic need for shelter, nutrition, clothing, nurture, socialization and interpersonal skills, care for personal health and hygiene, supervision, education, and service planning;

(2) Treatment Services – In addition to child-care services, a specialized type of child-care services designed to treat and/or support children:

(A) With Emotional Disorders, such as mood disorders, psychotic disorders, or dissociative disorders, and who demonstrate three or more of the following:

(i) A Global Assessment Functioning of 50 or below;

(ii) A current DSM diagnosis;

(iii) Major self-injurious actions, including recent suicide attempts;

(iv) Difficulties that present a significant risk of harm to others, including frequent or unpredictable physical aggression; or

(v) A primary diagnosis of substance abuse or dependency and severe impairment because of the substance abuse;

(B) With Intellectual Disabilities, who have an intellectual functioning of 70 or below and are characterized by prominent, significant deficits and pervasive impairment in one or more of the following areas:

(i) Conceptual, social, and practical adaptive skills to include daily living and self care;

(ii) Communication, cognition, or expressions of affect;

(iii) Self-care activities or participation in social activities;

(continued)

(iv) Responding appropriately to an emergency; or

(v) Multiple physical disabilities, including sensory impairments;

(C) With Pervasive Developmental Disorder, which is a category of disorders (e.g. Autistic Disorder or Rett's Disorder) characterized by prominent, severe deficits and pervasive impairment in one or more of the following areas of development:

(i) Conceptual, social, and practical adaptive skills to include daily living and self care;

(ii) Communication, cognition, or expressions of affect;

(iii) Self-care activities or participation in social activities;

(iv) Responding appropriately to an emergency; or

(v) Multiple physical disabilities including sensory impairments;

(D) With Primary Medical Needs, who cannot live without mechanical supports or the services of others because of life-threatening conditions, including:

(i) The inability to maintain an open airway without assistance. This does not include the use of inhalers for asthma;

(ii) The inability to be fed except through a feeding tube, gastric tube, or a parenteral route;

(iii) The use of sterile techniques or specialized procedures to promote healing, prevent infection, prevent cross-infection or contamination, or prevent tissue breakdown; or

(iv) Multiple physical disabilities including sensory impairments; and

(E) Determined to be a trafficking victim, including a child:

(i) Determined to be a trafficking victim as the result of a criminal prosecution or who is currently alleged to be a trafficking victim in a pending criminal investigation or prosecution;

(ii) Identified by the parent or agency that placed the child with the child-placing agency as a trafficking victim; or

(iii) Determined by the child-placing agency to be a trafficking victim based on reasonably reliable criteria, including one or more of the following:

(I) The child's own disclosure as a trafficking victim;

(II) The assessment of a counselor or other professional; or

(III) Evidence that the child was recruited, harbored, transported, provided to another person, or obtained for the purpose of forced labor or commercial sexual activity; and

(continued)

(3) Additional Programmatic Services, which include:

(A) Transitional Living Program – A residential services program designed to serve children 14 years old or older for whom the service or treatment goal is basic life skills development toward independent living. A transitional living program includes basic life skills training and the opportunity for children to practice those skills. A transitional living program is not an independent living program;

(B) Assessment Services Program – Services to provide an initial evaluation of the appropriate placement for a child to ensure that appropriate information is obtained in order to facilitate service planning; and

(C) Respite Child-Care Services – See §749.2621 of this title (relating to What are respite child-care services?).

Helpful Information

Regarding subsection (2)(A), neither attending therapy nor taking a psychotropic medication factors into a child being eligible for treatment services for an emotional disorder. Only the indicators noted above are considered when determining eligibility for treatment services.

Omitted from this publication:

§749.63. Can I provide each type of service that Licensing regulates?

§749.65. What children are eligible to participate in a transitional living program?

January 2007

Medium-Low (a) For a child to be eligible to participate in a transitional living program, the child must be 14 years old or older.

Medium (b) For a child to be eligible to receive the level of caregiver supervision described in §749.2597 of this title (relating to Where must the caregivers reside in order to supervise children who are in a transitional living program?), the child must be 16 years old or older.

§749.67. What are the requirements for a transitional living program?

January 2007

Medium-Low A transitional living program must have a training program for children that demonstrates competency in the following areas:

Medium (1) Health, general safety, and fire safety practices;

Low (2) Money management;

Low (3) Transportation skills;

Low (4) Accessing community and other resources; and

Medium (5) Child health and safety, child development, and parenting skills, if the child is a parent of a child living with him.

§749.69. What is an "independent living program"?

January 2007

(no weight) An "independent living program" is a program that provides case management services to a child who lives independently, without supervision and child/caregiver ratio, and the constant presence of an on-site caregiver.

§749.71. May I have an independent living program?

January 2007

Medium-Low Your agency may not provide an independent living program for a child in care under 18 years old.

Subchapter C, Organization and Administration

Division 1, Permit Holder Responsibilities

Omitted from this publication:

§749.101. What are my responsibilities as the permit holder before I begin operating?

§749.103. What are my operational responsibilities as the permit holder?

§749.105. What responsibilities do I have for personnel policies and procedures?

§749.107. What must my conflict of interest policies include?

January 2007

Your conflict of interest policies must include a:

Medium (1) Code of conduct on the relationship between employees, contract service providers, children in placement, foster and adoptive parents, and children's families;

Medium (2) Statement that it is a conflict of interest for any of the following people or relatives of any of the following to be verified as a foster parent or approved as an adoptive parent of the agency: any current owner, member of the governing body, executive director, or any other employee or contract service provider of your agency; and

Medium (3) Code of conduct on the relationship between your agency's owners, members of the governing body, employees, and prospective and current foster and adoptive parents, including required parameters for entering into independent financial relationships or transactions.

Omitted from this publication:

Division 2, Governing Body

Division 3, General Fiscal Requirements

Division 4, Fiscal Requirements for Adoption Agencies

Division 5, Financial Assistance to Birth Mothers

Division 6, Fiscal Accountability/Pass-Through Expenses

Division 7, Branch Offices

Division 8, Policies and Procedures

§749.331. What are the general requirements for my agency's policies?

January 2007

(no weight) (a) The requirements for policies only apply to the agency's policies that are required or governed by this chapter.

Medium-Low (b) The policies that we require must be written and they must indicate the approval of the governing body, date of approval, and effective date.

Medium (c) The policies must be clearly stated and comply with the rules of this chapter.

Medium-Low (d) All employees and caregivers must be made aware of and follow your policies and procedures. A copy of your policies and procedures must be maintained at the agency and available for review by an employee or caregiver.

Medium (e) All policies must be available for review by our staff and your clients, upon request.

Medium (f) You must report any significant change to the policies to us at least seven days before implementing the change.

Low (g) You must maintain copies of all current and previous policies for at least two years.

Omitted from this publication:

§749.333. What are the requirements for my admission policies?

§749.335. What information must my placement policy contain?

§749.337. What policies must I provide to the person placing the child?

§749.339. What child-care policies must I develop?

§749.341. What emergency behavior intervention policies must I develop if the use of emergency behavior intervention is permitted in my foster homes?

§749.343. What policies must I develop on the discipline of children in foster care and pre-adoptive care?

December 2014

Medium You must develop policies that guide caregivers in methods used for discipline of children in foster care or adoptive placement prior to consummation. Your discipline policies must integrate trauma informed care into the care, treatment, and management of each child, and include:

Medium (1) Measures for positive responses to appropriate behavior;

Medium (2) If you work with infants, a statement that discipline of any type is not appropriate or permitted for infants; and

Medium (3) The importance of nurturing behavior, stimulation, and promptly meeting the child's needs.

While discipline is broadly defined, it is still the intent of the rule to prohibit any formal or structured discipline of infants. Infants do not have the cognitive ability to understand verbal direction and modify their behavior accordingly. Nothing can substitute for adult supervision and interaction.

For example, if a 14-month-old is wandering toward the street, a caregiver can say "Stop! I need you need to stay close to me," but this cannot substitute for physically preventing the child from entering the street. The caregiver cannot expect the child to stop and cannot expect the infant to not repeat this behavior.

This does not mean that an infant should not experience natural consequences for their behavior, but rather that the caregiver should not expect any cognitive learning or behavior modification to result. For example, if a 15-month-old bites someone, the caregiver should separate the biting infant and show empathy for the biting victim, but you cannot expect any consequences that the infant experiences to effect future biting behavior.

While an infant should experience natural, non-punitive consequences (e.g. being moved away from a hot stove), any expectation that an infant learn and modify his behavior could lead to unrealistic expectations, decreased supervision necessary to prevent dangerous situations, and frustration on the part of the caregiver.

Corporal punishment is prohibited for all children, regardless of age (see §749.1953). Per §749.1957(12), children may not be confined to furniture or equipment (such as a high chair) as discipline.

§749.345. What foster care policies must I develop?

January 2007

You must develop foster care policies that include the following:

Medium (1) Criteria and procedures for screening and accepting foster parent applicants or agency home caregivers who can meet the needs of the children your agency serves;

Medium (2) Criteria for making decisions about the number, ages, gender, and needs of children who may be placed in a foster home;

Medium-Low (3) Respective rights and responsibilities of the agency and foster parents;

Medium-Low (4) Pre-service and annual training requirements for foster parents or agency home caregivers; and

Medium-Low (5) Policies on how you will provide services if the home provides more than one type of care.

§749.347. What policies must I develop on the rights and responsibilities of the child-placing agency, foster parents, and caregivers?

December 2014

Medium-Low (a) You must develop a policy clearly stating the rights and responsibilities of the child-placing agency and foster parents. The policy must specify:

Medium-Low (1) What decisions you will make, what decisions the foster parents will make, and which ones you and the foster parents must agree upon. This policy must address unsupervised activities and support normalcy, consistent with §749.2593 of this title (relating to What responsibilities does a caregiver have when supervising a child?) and §749.2594 of this title (relating to Who should make the decision regarding a foster child's participation in childhood activities?);

(2) Training requirements for foster parents and caregivers, including:

Medium-Low (A) What part you will provide;

Medium-Low (B) What part the foster parents and caregivers must acquire on their own; and

Low (C) A statement about who will be responsible for training fees, travel expenses, and associated child-care costs;

Medium-Low (3) The channels through which you and the foster parents will communicate with each other;

Low (4) The amount of reimbursement(s) you will provide the foster parents and when the foster parents will receive it;

Medium-Low (5) The type of relevant information and pre-placement contact you will provide, so the foster parents can make an informed decision about a placement;

Low (6) How much discretion the foster parents have in accepting or declining specific placements;

(continued)

Medium (7) The kind and amount of support provided to all foster families and any services available to foster parents, including what support and services will be provided for babysitting, overnight care, and respite child-care services;

Medium-Low (8) The kind of information you expect the foster parents to report to you and within what time frames;

Medium-Low (9) The foster parents' role in the services to children in care, including expectations for the foster parents' participation in service planning and implementation of the service plan;

Low (10) The foster parents' right to appeal your actions and decisions that affect them and the procedures for making an appeal;

Medium (11) The responsibilities of the child-placing agency and the foster parents for complying with the rules of this chapter; and

Low (12) How foster parents may review their child-placing agency home record.

Low (b) You must provide foster parents with a copy of this policy at the time you verify the home.

§749.349. What additional policies must I develop for foster parents that provide treatment services?

December 2014

(a) You must develop additional policies for foster parents that provide treatment services. These policies must include:

Medium-High (1) Ongoing assessments of the caregiver's abilities to meet the needs of the children in care;

Medium-High (2) Safeguards for protecting the children and caregivers;

Medium-High (3) Emergency back-up and support systems for the caregivers; and

Medium-Low (4) A procedure for your review and approval of paragraphs (1)-(3) of this subsection.

Medium (b) Your policy regarding support to foster families and services available, which is required at §749.347(a)(7) of this title (relating to What policies must I develop on the rights and responsibilities of the child placing agency, foster parents, and caregivers?), must include making annual arrangements for 72 hours of overnight care or a longer period of time of respite child-care services for foster parents that provide treatment services to a child with primary medical needs.

§749.351. What policies must I develop for fosters parents who offer a transitional living program?

January 2007

If foster parents offer a transitional living program, you must develop policies that address the following:

Medium-Low (1) Criteria used to select participants for the program;

Medium-Low (2) Supervision of participants;

Medium (3) Expected behaviors of participants and consequences for failure to comply;

Low (4) Training, education, and experiences to be achieved in the program; and

Medium-Low (5) Roles of participants, agency employees, contract staff, and caregivers.

§749.353. What policies must I develop for babysitters, overnight care providers, and respite care providers?

December 2014

For both in-home and out-of-home care, you must develop policies specifically for babysitters, overnight care providers, and respite care providers that include:

Medium-Low (1) Minimum age for each type of provider;

Medium-Low (2) Minimum amount and type of prior child-care experience that each type of provider must have;

Medium-Low (3) Amount and type of training each type of provider must have;

Medium-Low (4) Reference and background information that foster parents or you must obtain before using each type of provider;

Medium-Low (5) Number of children that each type of provider can care for;

Medium-Low (6) Information that the foster parents must share with a provider, including information about the children in care and emergency contact information for the foster parent and the agency;

Medium-Low (7) Specific care instructions that the foster parents must share with a provider for children with treatment needs;

Medium-Low (8) A method for contact between the foster parent (and/or the child-placing agency) and provider during the time of the provider's care;

Medium-Low (9) Procedures for agency review and approval of arrangements; and

Low (10) Requirements for documentation of arrangements, including agency child placement staff review and approval, in the foster home record.

Omitted from this publication:

§749.355. What policies must I develop for a legal risk placement program for foster-adoptive families?

§749.357. What policies must I develop if I offer adoption services?

§749.359. What policies must I develop if I use volunteers?

Division 9, Clients and Appeals

§749.421. Who are my clients?

January 2007

(no weight) (a) Your child clients include children in:

(1) Foster care; and

(2) Pre-consummated adoptive placement.

(no weight) (b) Your adult clients include:

(1) Birth parent, managing conservator, or whoever has legal responsibility for the child that you are placing;

(2) Foster parent applicants;

(3) Foster parents;

(4) Adoptive applicants;

(5) Adoptive parents prior to consummation of the adoption; and

(6) Adoptive parents and birth parents seeking post adoptive services.

(no weight) (c) Anyone can call you for information or attend a meeting open to all interested persons, but a person becomes your client when you establish a relationship beyond that available to someone who is merely an interested person.

§749.423. What rights do my adult clients have?

September 2010

When a person becomes your adult client, you must inform the person:

Low (1) That the rules of this chapter, the compliance status reports, and your policies are available for review upon their request;

Low (2) Of their right to appeal agency actions and decisions that affect them, and the procedures for making an appeal;

Low (3) Of procedures for making a complaint to us; and

Low (4) Of other entities where it is appropriate to file complaints, such as the board or state agency that professionally licenses individuals whom you employ or contract with, and the procedures for making complaints to those entities.

§749.425. What must my appeal process include?

January 2007

Low (a) You must have a written appeal process for your adult clients in regard to your actions and decisions that affect those clients.

(b) The process must describe:

Low (1) How you will inform clients of their right to appeal;

Low (2) The procedures for making an appeal;

Low (3) Who will hear an appeal and make the decision;

Low (4) How the person who requests an appeal will find out about the decision;

Low (5) Time frames for making a decision and communicating the decision to the complainant; and

Low (6) The basis for an appeal decision.

Low (c) You must provide this information to each birth parent, foster parent applicant, or adoptive applicant before you make that person your client.

(no weight) (d) Your appeal process does not have to involve anyone from outside your agency. An internal review procedure is sufficient.

Subchapter D, Reports and Record Keeping

Division 1, Reporting Serious Incidents and Other Occurrences

§749.501. What is a serious incident?

January 2007

(no weight) A serious incident is a non-routine occurrence that has or may have dangerous or significant consequences on the care, supervision, and/or treatment of a child.

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

June 2014

(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:

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) Report as soon as possible, but no later than 24 hours after the incident or occurrence. Medium-High	(B)(i) YES (B)(ii) Immediately. Medium-High	(C)(i) YES (C)(ii) Immediately. Medium-High
(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.	(A)(i) YES (A)(ii) Report as soon as possible, but no later than 24 hours after the incident or occurrence. Medium-High	(B)(i) YES (B)(ii) Report as soon as possible, but no later than 24 hours after the incident or occurrence. Medium	(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. Medium-High	(B)(i) YES, including whether you plan to move the child until the investigation is complete. (B)(ii) As soon as you become aware of it. Medium	(C)(i) NO (C)(ii) Not applicable.

(continued)

Serious Incident	**(i) To Licensing?** **(ii) If so, when?**	**(i) To Parents?** **(ii) If so, when?**	**(i) To Law Enforcement?** **(ii) If so, when?**
(4) Physical abuse committed by a child against another child. For the purpose of this subsection, physical abuse is: physical injury that results in substantial bodily harm and requiring emergency medical treatment, excluding any accident; or failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial bodily harm to the child.	(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after the occurrence or incident. Medium-High	(B)(i) YES (B)(ii) As soon as possible, but no later than 24 hours after the occurrence or incident. Medium	(C)(i) NO (C)(ii) Not applicable.
(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 possible, but no later than 24 hours after the occurrence or incident. Medium-High	(B)(i) YES (B)(ii) As soon as possible, but no later than 24 hours after the occurrence or incident. Medium	(C)(i) NO (C)(ii) Not applicable.
(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.	(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after you become aware of it. Medium	(B)(i) YES (B)(ii) As soon as you become aware of it. Medium	(C)(i) NO (C)(ii) Not applicable.
(7) A child developmentally or chronologically under 6 years old is absent from a foster home and cannot be located, including the removal of a child by an unauthorized person.	(A)(i) YES (A)(ii) Within 2 hours of notifying law enforcement. Medium-High	(B)(i) YES (B)(ii) Within 2 hours of notifying law enforcement. Medium	(C)(i) YES (C)(ii) Immediately upon determining the child is not on the premises and the child is still missing. Medium-High

(continued)

Serious Incident	**(i) To Licensing?** **(ii) If so, when?**	**(i) To Parents?** **(ii) If so, when?**	**(i) To Law Enforcement?** **(ii) If so, when?**
(8) A child developmentally or chronologically 6 to 12 years old is absent from a foster home and cannot be located, including the removal of a child by an unauthorized person.	(A)(i) YES (A)(ii) Within 2 hours of notifying law enforcement, if the child is still missing. Medium-High	(B)(i) YES (B)(ii) Within 2 hours of determining the child is not on the premises, if the child is still missing. Medium	(C)(i) YES (C)(ii) Within 2 hours of determining the child is not on the premises, if the child is still missing. Medium-High
(9) A child 13 years old or older is absent from a foster home and cannot be located, including the removal of a child by an unauthorized person.	(A)(i) YES (A)(ii) No later than 24 hours from when the child's absence is discovered and the child is still missing. Medium	(B)(i) YES (B)(ii) No later than 24 hours from when the child's absence is discovered and the child is still missing. Medium	(C)(i) YES (C)(ii) No later than 24 hours from when the child's absence is discovered and the child is still missing. Medium
(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 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. Medium	(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. Medium	(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 of the incident. Medium-High	(B)(i) YES (B)(ii) As soon as you become aware of the incident. Medium	(C)(i) NO (C)(ii) Not applicable.

Medium

(b) Foster parents must report any serious incident directly to the Child Abuse Hotline if the incident involves a child under the care of the foster parent.

(continued)

Medium

(c) 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. You do have to report the incident to law enforcement, as outlined in the chart above. You also have to report the incident to the parents, if the adult resident is not capable of making decisions about his own care.

(d) You must report and document the following types of serious incidents involving your agency, one of your foster homes, an employee, contract staff, or a volunteer 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.	(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after the incident. Medium	(B)(i) YES (B)(ii) As soon as possible, but no later than 24 hours after the incident. Medium
(2) A disaster or emergency that requires your operation to close.	(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after the incident. Medium	(B)(i) YES (B)(ii) As soon as possible, but no later than 24 hours after the incident. Medium
(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. Medium	(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. Medium
(4) An allegation that a person under the auspices of your operation who directly cares for or has access to a child in the operation has abused drugs within the past seven days.	(A)(i) YES (A)(ii) Within 24 hours after learning of the allegation. Medium	(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, volunteer, or other adult at the operation.	(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after you become aware of the investigation. Medium	(B)(i) NO (B)(ii) Not applicable.

(continued)

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?
(6) An arrest, indictment, or a county or district attorney accepts an "Information" regarding an official complaint against an employee, professional level service provider, or volunteer alleging commission of any crime as provided in §745.651 of this title (relating to What types of criminal convictions may affect a person's ability to be present at an operation?).	(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after you become aware of the situation. Medium	(B)(i) NO (B)(ii) Not applicable.

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 "critical injury or illness" must be reported and documented as a serious incident. The rule 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 critical 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.

§749.505. What constitutes a suicide attempt by a child?

September 2010

(no weight) A suicide attempt is a child's attempt to take his own life using means or methods for causing his death, including any act a child commits intending to cause his death, but excluding suicidal gestures where it is clear that the act was unlikely to cause death. Suicidal thoughts are not reportable as a suicide attempt.

§749.507. When must I report other occurrences?

September 2010

You must report and document the following occurrences to the following entities within the specified time frame:

Occurrences	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?
(1) Medically pertinent incidents, such as seizures, that do not rise to the level of a serious incident.	(A)(i) NO (A)(ii) Not applicable; however, you must document the type of incident including the date, time, action taken, and child's name. Medium-High	B)(i) YES (B)(ii) Within seven days. Medium-High
(2) Changing your child-placing agency administrator.	(A)(i) YES, in writing. (A)(ii) Within seven days after the action is taken. Medium-High	(B)(i) NO (B)(ii) Not applicable.

§749.509. How do I make a report of a serious incident or occurrence to Licensing?

January 2007

Medium (a) All serious incident reports must be made to the Child Abuse Hotline.

Medium (b) Occurrences that are required to be reported to Licensing in writing must be forwarded to your Licensing representative (See §749.507 (2) and (3) of this title (relating to When must I report other occurrences?)).

§749.511. How must I document a serious incident?

September 2010

Medium A serious incident must be documented in a written report that includes the following information:

Medium (1) The name of the foster home or adoptive home, physical address, and telephone number;

Medium (2) The time and date of the incident;

Medium (3) The name, age, gender, and date of admission of the child or children involved;

Medium (4) The names of all adults involved and their role in relation to the child(ren);

Medium (5) The names or other means of identifying witnesses to the incident, if any;

Medium (6) The nature of the incident;

Medium (7) The circumstances surrounding the incident;

Medium (8) Interventions made during and after the incident, such as medical interventions, contacts made, and other follow-up actions;

Medium (9) The treating licensed health-care professional's name, findings, and treatment, if any; and

Medium (10) The resolution of the incident.

(continued)

Helpful Information

Regarding subsection (3), this requirement is not intended to conflict with confidentiality laws or rights. Identifying information for one child should not be placed in the record of another child. You may choose to 1) write one incident report that is filed centrally (not in each child's record) and de-identified when released as part of a child's record, 2) write one incident report that is filed in each child's record, with each copy de-identified to not show the full name of other children involved in the incident, or 3) write a separate incident report for each child, with only the first name or initials of each other child involved.

Regarding subsection (5), witnesses to the incident are persons who were present when the incident occurred and can give a first-hand account of what they experienced during the incident. A person is not automatically a witness because he lives in the same unit or cottage as the child involved in the incident. Witnesses may also be persons unaffiliated with the operation, such as a visitor to the operation who was present at the time of the incident.

§749.513. What additional documentation must I include with a written serious incident report?

January 2007

You must include the following additional documentation with a written serious incident report, as applicable:

	Serious Incident	Documentation
Medium	(1) Child death, suicide attempt, or a critical injury reportable under §749.503(a)(1), (2), and (11) of this title (relating to When must I report and document a serious incident?).	Any emergency behavior interventions implemented on the child within 48 hours prior to the serious incident.
Medium-High	(2) Any critical injury reportable under §749.503(a)(2) of this title that resulted from a short personal restraint.	Documentation of the short personal restraint, including the precipitating circumstances and specific behaviors that led to the emergency behavior intervention.
Medium	(3) Child absent without permission.	(A) Any efforts made to locate the child; (B) The date and time you notified the parent(s) and the appropriate law enforcement agency and the names of the persons with whom you spoke regarding the child's absence and subsequent location or return to the foster home; and (C) If the parent cannot be located, dates and times of all efforts made to notify the parent regarding the child's absence and subsequent location or return to the foster home.
Medium	(4) Any abusive behavior among children reportable under §749.503(a)(4) or (5) of this title.	The difference in size, age, and developmental level of the children involved in the abusive behavior.

Omitted from this publication:

§749.515. Where must I keep incident reports?

Division 2, Operation Records

Division 3, Personnel Records

Division 4, Client Records

Omitted from this publication:

Subchapter E, Agency Staff and Caregivers

Subchapter F, Training and Professional Development

Division 1, Definitions

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

January 2007

(no weight) The words and terms used in this subchapter have the following meanings:

(1) CEU – Continuing education unit.

(2) CPR – Cardiopulmonary resuscitation.

(3) Hours – Clock hours.

(4) Instructor led training – Training that is characterized by the communication and interaction that takes place between the student and the instructor and must include an opportunity for the student to timely interact with the instructor to obtain clarifications and information beyond the scope of the training materials, including answering questions, providing feedback on skills practice, providing guidance or information on additional resources, and proactively interacting with students. Examples of this type of training include classroom training, on-line distance learning, video-conferencing, or other group learning experiences.

(5) Self instructional training – Training that is designed to be used by one individual working alone and at their own pace to complete lessons or modules. Examples of this type of training include computer based training, written materials, or video training.

Division 2, Orientation

§749.831. What is the orientation requirement for caregivers and employees?

January 2007

Medium (a) Prior to beginning job duties or having contact with children in care, each caregiver or employee must have orientation that includes:

Medium (1) An overview of the relevant and applicable rules of this chapter;

Medium (2) Your philosophy, organizational structure, policies, and a description of the services and programs you offer; and

Medium (3) The needs and characteristics of children that you serve.

Medium-Low (b) You must document the completion of the orientation in the appropriate personnel record.

Omitted from this publication:

§749.833. Must I provide orientation to a person who was previously a caregiver or an employee at my agency?

Division 3, Pre-Service Experience and Training

§749.861. What are the pre-service experience requirements for caregivers?

January 2007

(no weight) (a) For caregivers providing care to children only receiving child-care services and/or programmatic services, there are no pre-service experience requirements.

Medium-High (b) Before a caregiver can provide care to a child receiving treatment services, you must ensure that the caregiver has the experience to care for the child's treatment need. If a caregiver does not have the necessary experience, your child-placement management staff must prescribe a regimen of specific child-care experience that the caregiver must complete before you place a child with treatment needs in the caregiver's home.

Medium (c) You must document the caregiver's experience and/or prescribed regimen in the home's record.

§749.863. What are the pre-service hourly training requirements for caregivers and employees?

September 2010

(a) Caregivers and certain employees must complete the following training hours before the noted timeframe:

	Who is required to receive the training?	**What type of pre-service training?**	**How many hours of training are needed?**	**When must the training be completed?**
Medium	(1) All caregivers	General pre-service training	8 hours	Before the person can be the only caregiver responsible for a child in care
Medium-High	(2) Caregivers caring for children receiving only child care services or programmatic services	Pre-service training regarding emergency behavior intervention	8 hours	At least 4 hours of training before the person can be the only caregiver responsible for a child in care, and all 8 hours of training within 90 days of being responsible for a child in care
Medium-High	(3) Caregivers caring for children receiving treatment services for emotional disorders, mental retardation, or pervasive developmental disorders	Pre-service training regarding emergency behavior intervention	16 hours, however, if your agency prohibits the use of emergency behavior intervention, then only 8 hours of training are needed	At least half of the required hours of training before the person can be the only caregiver responsible for a child in care, and all of the required hours of training within 90 days of being responsible for a child in care

(continued)

	Who is required to receive the training?	What type of pre-service training?	How many hours of training are needed?	When must the training be completed?
Medium	(4) Child-placing agency administrators, treatment directors, child placement staff, child placement management staff, and full-time professional service providers, except those exclusively assigned to provide adoption services, or those exclusively assigned to children receiving treatment services for primary medical needs	Pre-service training regarding emergency behavior intervention	8 hours	All 8 hours of training within 90 days of beginning job duties

(no weight) (b) Caregivers exclusively caring for children receiving treatment services for primary medical needs are exempt from pre-service emergency behavior intervention training requirements.

Medium-Low (c) You must document the completion of each training requirement in the appropriate personnel record.

Helpful Information

A person may not administer any form of emergency behavior intervention until his pre-service training is complete, except the short personal restraint of a child. §749.2053 requires that only a caregiver qualified in emergency behavior intervention administer emergency behavior interventions, except short personal restraint. A person is not considered qualified until/unless his training is complete.

§749.865. Can time spent in orientation training count towards pre-service training?

January 2007

Medium-Low No, the orientation training must be separate from the pre-service hourly training requirement.

Helpful Information

Orientation is focused on providing new employees and caregivers with information about your organization and how it operates. Pre-service training is focused on preparing new employees and caregivers to do their job competently. This is the reason that these requirements are separate in the minimum standards and that orientation may not be counted toward pre-service or annual training requirements.

Omitted from this publication:

§749.867. Must I provide pre-service training to a caregiver or employee who was previously a caregiver or employee for a child-placing agency?

§749.869. What are the instructor requirements for providing pre-service training?

January 2007

Medium (a) A qualified instructor must deliver the pre-service training.

Medium (b) The training must be instructor led.

Medium-High (c) A health-care professional or a pharmacist must provide training in administering psychotropic medication. The trainer must assess each participant after the training to ensure that the participant has learned the course content.

(d) To provide training in emergency behavior intervention the:

Medium-High (1) Instructor must be certified in a recognized method of emergency behavior intervention, or be able to document knowledge of:

Medium-High (A) The emergency behavior intervention;

Medium-High (B) The course material;

Medium-High (C) Training delivery methods and techniques; and

Medium-High (D) Training evaluation or assessment methods and techniques;

Medium-High (2) Training must be competency-based and require participants to demonstrate skill and competency at the end of the training.

Division 4, General Pre-Service Training

§749.881. What curriculum components must be included in the general pre-service training?

December 2014

The general pre-service training curriculum must include the following components:

Medium (1) Topics appropriate to the needs of children for whom the caregiver will be providing care, such as developmental stages of children, fostering children's self-esteem, constructive guidance and discipline of children, strategies and techniques for monitoring and working with these children, and normalcy;

Medium (2) Trauma informed care;

Medium (3) The different roles of caregivers;

Medium-High (4) Measures to prevent, identify, treat, and report suspected occurrences of child abuse (including sexual abuse), neglect, and exploitation;

Medium-High (5) Procedures to follow in emergencies, such as weather related emergencies, volatile persons, and severe injury or illness of a child or adult; and

Medium-High (6) Preventing the spread of communicable diseases.

§749.883. Are there additional general pre-service training requirements for a caregiver who will care for children younger than two years old?

January 2007

Yes. You must ensure that each caregiver providing care for children younger than two years old receives training on:

Medium-High (1) Recognizing and preventing shaken baby syndrome;

Medium-High (2) Preventing sudden infant death syndrome; and

Medium (3) Understanding early childhood brain development.

§749.885. Are there additional general pre-service training requirements for a caregiver that administers psychotropic medication?

January 2007

Yes. You must ensure that each caregiver that administers psychotropic medication receives training on:

High (1) Identification of psychotropic medications;

Medium-High (2) Basic pharmacology (the actions and side effects of, and possible adverse reactions to, various psychotropic medications);

Medium-High (3) Techniques and methods of administering medications;

Medium (4) Who is legally authorized to provide consent for the psychotropic medication; and

Medium (5) Any related policies and procedures.

Omitted from this publication:

Division 5, Pre-Service Training Regarding Emergency Behavior Intervention

Division 6, Annual Training

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

December 2014

(a) Caregivers and employees must complete the following training hours:

Who is required to receive the annual training?	How many hours of annual training are needed?	Weight
(1) Caregivers caring for children receiving only child-care services, programmatic services, and/or treatment services for primary medical needs	(A) For homes with two foster parents, the foster parents must receive a total of 20 hours of annual training, of which four hours for each foster parent must be on training specific to the emergency behavior interventions allowed by your agency, and one hour for each foster parent must be on training specific to trauma informed care. The remaining 10 hours must be distributed appropriately, and each foster parent must receive some amount of the remaining training.	High
	(B) For all other caregivers, each caregiver must receive 20 hours of annual training, of which four hours must be on training specific to the emergency behavior interventions allowed by your agency, and two hours must be on training specific to trauma informed care.	High
	(C) For foster group homes only, each person's annual training must include two hours of transportation safety training if the person transports a child in care whose chronological or developmental age is younger than nine years old.	High
	(D) Caregivers exclusively caring for children receiving treatment services for primary medical needs are exempt from emergency behavior intervention training requirements.	(no weight)
(2) Caregivers caring for children receiving treatment services for emotional disorders, intellectual disabilities, or pervasive developmental disorders	(A) For homes with two foster parents, the foster parents must receive a total of 50 hours of annual training, of which eight hours for each foster parent must be on training specific to the emergency behavior interventions allowed by your agency, and two hours for each foster parent must be on training specific to trauma informed care. The remaining 30 hours must be distributed appropriately, and each foster parent must receive some amount of the remaining training.	High
	(B) For homes with one foster parent, 30 hours, of which eight hours must be on training specific to the emergency behavior interventions allowed by your agency, and two hours must be on training specific to trauma informed care.	High
	(C) All other caregivers, 30 hours, of which eight hours must be on training specific to the emergency behavior interventions allowed by your agency, and two hours must be on training specific to trauma informed care.	High
	(D) For foster group homes only, each person's annual training must include two hours of transportation safety training if the person transports a child in care whose chronological or developmental age is younger than nine years old.	High

(continued)

Who is required to receive the annual training?	How many hours of annual training are needed?	Weight
(3) Child placement staff with less than one year of child-placing experience	(A) 30 hours for the initial year, of which two hours must be on training specific to trauma informed care;	Medium-High
	(B) 20 hours after the initial year, of which two hours must be on training specific to trauma informed care; and	Medium-High
	(C) There are no annual training requirements for emergency behavior interventions. However, if there is a substantial change in techniques, types of intervention, or agency policies regarding emergency behavior intervention, then the staff must be re-trained.	Medium-High
	(D) Annual training must include two hours of transportation safety training if the person transports a child placed in a foster group home whose chronological or developmental age is younger than nine years old.	Medium-High
(4) Child placement staff with at least one year of child-placing experience	20 hours, of which two hours must be on training specific to trauma informed care, and two hours of transportation safety training if the person transports a child placed in a foster group home whose chronological or developmental age is younger than nine years old. There are no annual training requirements for emergency behavior interventions. However, if there is a substantial change in techniques, types of intervention, or agency policies regarding emergency behavior intervention, then the staff must be re-trained.	Medium
(5) Child placement management staff	20 hours, of which two hours must be on training specific to trauma informed care, and two hours of transportation safety training if the person transports a child placed in a foster group home whose chronological or developmental age is younger than nine years old. There are no annual training requirements for emergency behavior interventions. However, if there is a substantial change in techniques, types of intervention, or agency policies regarding emergency behavior intervention, then the staff must be re-trained.	Medium
(6) Child-placing agency administrators, executive directors, treatment directors, and full-time professional service providers who hold a relevant professional license	(A) 15 hours, however, annual training hours used to maintain a person's relevant professional license may be used to complete these hours.	Medium
	(B) There are no annual training requirements for emergency behavior interventions. However, if there is a substantial change in techniques, types of intervention, or agency policies regarding emergency behavior intervention, then the staff must be re-trained.	Medium
	(C) Annual training must include two hours of transportation safety training if the person transports a child placed in a foster group home whose chronological or developmental age is younger than nine years old.	Medium

(continued)

Who is required to receive the annual training?	How many hours of annual training are needed?	Weight
(7) Executive directors, treatment directors, and full-time professional service providers who do not hold a relevant professional license	20 hours, of which two hours must be on training specific to trauma informed care, and two hours of transportation safety training if the person transports a child placed in a foster group home whose chronological or developmental age is younger than nine years old. There are no annual training requirements for emergency behavior interventions. However, if there is a substantial change in techniques, types of intervention, or agency policies regarding emergency behavior intervention, then the staff must be re-trained.	Medium
(8) Child-placing agency administrators, child placement staff, child placement management staff, treatment directors, and full-time professional service providers	At least one hour of annual training must focus on prevention, recognition, and reporting of child abuse and neglect, including: (A) Factors indicating a child is at risk for abuse or neglect; (B) Warning signs indicating a child may be a victim of abuse or neglect; (C) Internal procedures for reporting child abuse or neglect; and (D) Community organizations that have training programs available to child-placing agency staff members, children, and parents.	Medium-High

(no weight) (b) Child placement staff, child placement management staff, child-placing agency administrators, executive directors, and full-time professional service providers who are exclusively assigned to provide adoption services, or exclusively assigned to children receiving treatment services for primary medical needs are not required to obtain any annual training related to emergency behavior intervention.

§749.933. When must an employee or caregiver complete the annual training?

September 2010

(a) Each person must complete the annual training:

Medium (1) Within 12 months from the date of his employment; and

Medium (2) During each subsequent 12-month period.

(b) Alternatively, you have the option of prorating the person's annual training requirements from the date of employment to the end of the calendar year or the end of the agency's fiscal year and then beginning a new 12-month period that coincides with the calendar or fiscal year.

Medium-Low (c) The method for completing annual training requirements must be consistent throughout your agency.

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

September 2010

Medium-Low (a) If the training complies with the other rules in this division (relating to Annual Training), annual training may include hours or CEUs earned through:

(no weight) (1) Workshops or courses offered by local school districts, colleges or universities, or Licensing;

(no weight) (2) Conferences or seminars;

Medium-High (3) Self-instructional training, excluding training on emergency behavior intervention, first-aid, and CPR;

(no weight) (4) Planned learning opportunities provided by child-care associations or Licensing;

(no weight) (5) Planned learning opportunities provided by a child-placing agency administrator, professional contract service provider, professional service provider, treatment director, child placement management staff, child placement staff, contractor, or caregiver who meets minimum qualifications in the rules of this chapter; or

(no weight) (6) Completed college courses for which a passing grade is earned, with three college credit hours being equivalent to 50 clock hours of required training. College courses do not substitute for required CPR or first-aid certification or required annual training on emergency behavior intervention or psychotropic medication.

(b) For annual training hours, you may count:

Medium (1) The hours of annual training that a person received at another child-placing agency, general residential operation, or residential treatment center, if the person:

(A) Received the training within the time period you are using to calculate the person's annual training; and

(B) Provides documentation of the training;

(no weight) (2) Annual emergency behavior intervention training;

(no weight) (3) First-aid and CPR training;

(no weight) (4) The hours of pre-service training that the person earns in addition to the required pre-service hours. For example, if a person completes 24 hours of pre-service emergency behavior intervention training, and is required to obtain 16 hours, that person may count eight of the hours toward annual training requirements;

Medium-Low (5) Half of the hours spent developing initial training curriculum that is relevant to the population of children served. No additional credit hours for training curriculum development are permitted for repeated training sessions; and

Medium-Low (6) One-fourth of the hours spent updating and making revisions to training curriculum that is relevant to the population of children served.

(continued)

(c) For annual training hours, you may not count:

Medium-Low (1) Orientation training;

Medium-Low (2) Pre-service training;

Medium-Low (3) The hours involved in case staffings and conferences with the supervisor; or

Medium-Low (4) The hours presenting training to others.

Medium-Low (d) No more than one-third of the required annual training hours may come from self-instructional training.

Medium-Low (e) If a person earns more than the minimum number of training hours required during a particular year, the person can carry over to the next year a maximum of 10 training hours.

§749.937. Does Licensing approve training resources or trainers for annual training hours?

January 2007

Medium No. We do not approve or endorse training resources or trainers for training hours. You must, however, ensure the employees receive reliable training relevant to the population of children served, which includes:

Medium-Low (1) Specifically stated learning objectives;

Medium-Low (2) A curriculum, which includes experiential or applied activities;

Medium (3) An evaluation/assessment tool to determine whether the person has obtained the information necessary to meet the stated objectives; and

Medium-Low (4) A certificate, letter, or a signed and dated statement of successful completion from the training source.

Omitted from this publication:

§749.939. What are the instructor requirements for providing annual training?

§749.941. What areas or topics are appropriate for annual training?

December 2014

Medium Annual training must be in areas appropriate to the needs of children for whom the caregiver provides care, which may include:

(1) Trauma informed care;

(2) Developmental stages of children;

(3) Constructive guidance and discipline of children;

(4) Fostering children's self-esteem;

(5) Positive interaction with children;

(6) Strategies and techniques for working with the population of children served;

(continued)

(7) Normalcy;

(8) Supervision and safety practices in the care of children, including making reasonable and prudent parenting decisions regarding a foster child's participation in childhood activities; or

(9) Preventing the spread of communicable diseases.

§749.945. For a caregiver that administers psychotropic medication, what annual training is required?

September 2010

Medium If you permit a caregiver to administer psychotropic medication:

(1) His annual training must meet the requirements in §749.885 of this title (relating to Are there additional general pre-service training requirements for a caregiver that administers psychotropic medication?); and

Medium-Low (2) He must obtain annual psychotropic medication training no later than 12 months after his last psychotropic medication training.

§749.947. What annual training is required regarding emergency behavior intervention?

September 2010

Medium-High (a) The annual training regarding emergency behavior intervention must reinforce basic principles covered in pre-service training, see §749.901 of this title (relating to If I do not allow the use of emergency behavior intervention, what curriculum components must be included in the pre-service training regarding emergency behavior intervention?) and §749.903 of this title (relating to If I allow the use of emergency behavior intervention, what curriculum components must be included in the pre-service training regarding emergency behavior intervention?), and develop and refine the caregiver's skills.

(no weight) (b) You may determine the content of the training based on your evaluation of your emergency behavior intervention programs.

(no weight) (c) The training may repeat pre-service training components, including training in the proper use and implementation of emergency behavior intervention.

Medium-High (d) Each caregiver who is required to obtain annual emergency behavior intervention training must obtain each annual training no later than 12 months after his last emergency behavior intervention training.

Best Practice Suggestion

Annual emergency behavior intervention training is not intended to be an exact replica of pre-service emergency behavior intervention training. While some review of previous content may be needed to ensure that caregivers retain necessary skills, you are expected and encouraged to use your emergency behavior intervention data to craft annual training that can most effectively improve the use of de-escalation techniques and emergency behavior interventions in your foster homes. This may include techniques caregivers can use to proactively avoid crisis situations.

§749.949. What documentation must I maintain for annual training?

September 2010

Medium-Low (a) You must keep documentation verifying completion of annual training in the appropriate personnel record. The documentation may be a certificate, letter, or a signed and dated statement of successful completion from the training source. The documentation may also be a transcript from an accredited college or university.

(b) The documentation for training other than college courses must include the following information:

Medium-Low (1) The participant's name;

Medium-Low (2) Date of the training;

Medium-Low (3) Title or subject of the training;

Medium-Low (4) The trainer's name and qualifications, or the source of the training for self-instructional training; and

Medium-Low (5) Length of the training in hours.

§749.951. What are the annual training requirements if a caregiver is absent from the home on an extended basis for military service or as a condition of his employment?

September 2010

(a) If a caregiver is absent from the home on an extended basis for military service:

(no weight) (1) He is temporarily exempt from annual training requirements;

(no weight) (2) Upon his return home, his annual training requirements are prorated; and

Medium-High (3) If needed, he must obtain first aid and/or CPR certification within 60 days of returning home.

(b) If a caregiver is absent from the home on an extended basis as a condition of his employment:

(no weight) (1) Annual training requirements are prorated based on the amount of time the caregiver is at home; and

Medium-High (2) If needed, he must maintain first aid and/or CPR certification.

Division 7, First-Aid and CPR Certification

§749.981. What first-aid and cardiopulmonary resuscitation (CPR) certification must caregivers have?

January 2007

(a) Before a caregiver can be the only caregiver responsible for a child in care, the caregiver must be certified in:

High (1) First-aid, with rescue breathing and choking; and

High (2) CPR for infants, children, and adults.

(b) A caregiver who is a health professional can use documentation of the following in lieu of these certifications:

High (1) The training to be a health professional includes the knowledge covered in first aid and/or CPR training; and

High (2) The person's employment ensures that these skills are kept current.

§749.983. When must a caregiver renew first-aid and CPR certification?

January 2007

High Each caregiver must complete any new first-aid training or CPR training, as required to maintain a current certification.

§749.985. Who can provide first-aid and CPR certification?

January 2007

Medium-High (a) The following may provide first-aid and CPR certification:

(1) The American Red Cross, American Heart Association, or a training program that has been approved by the local Emergency Medical Services Authority, or is offered through a local hospital; or

(2) A person with a current certification to provide the training.

Medium-High (b) A caregiver may not obtain first-aid or CPR certification through self-instructional training.

§749.987. What must the first-aid and CPR training include?

January 2007

Medium-High (a) First-aid and CPR training and re-certification must consist of a curriculum that includes both written and hands-on skill-based instruction, practice (for CPR, the practice is through the use of a CPR mannequin), and testing.

Medium-High (b) CPR training and re-certification must include CPR for infants, children, and adults.

§749.989. What documentation must I maintain for first-aid and CPR certification?

January 2007

Medium-Low (a) You must document the completion of each training requirement in the appropriate personnel records. The documentation may be a certificate, letter, or a statement of successful completion, that is signed and dated, from the training source. A photocopy of the original first-aid and/or CPR certificate or letter may be maintained in the personnel record, as long as the employee can provide an original document upon request by Licensing.

(b) The documentation must include the following information:

Medium-Low (1) The participant's name;

Medium-Low (2) Date of the training;

Medium-Low (3) Title or subject of the training;

Medium-Low (4) The trainer's name and qualifications;

Medium-Low (5) The expiration date of the certification as determined by the organization providing the certification; and

Medium-Low (6) Length of the training in hours.

Omitted from this publication:

§749.991. How do the rules in this division apply to child placement staff?

Subchapter G, Children's Rights

§749.1001. How must I protect the rights of children served by my child-placing agency?

January 2007

Medium-High (a) You must protect the rights of children while they are in foster care or in adoptive placement prior to the consummation of the adoption.

Medium-High (b) You must ensure that a caregiver or an adoptive parent, prior to consummation of the adoption, does not restrict or deny a child's rights.

High (c) You are responsible for removing a child from a situation where abuse, neglect, or exploitation exists.

§749.1003. What rights does a child in care have?

December 2014

Medium-High (a) A child's rights are cumulative of any other rights granted by law or other Licensing rules.

(b) You must adhere to the child's rights, including:

Medium (1) The right to appropriate care and treatment in the least restrictive setting available that can meet the child's needs;

Medium-High (2) The right to be free from discrimination on the basis of gender (if your agency accepts both genders), race, religion, national origin, or sexual orientation;

Medium-High (3) The right to have his physical, emotional, developmental, educational, social and religious needs met;

High (4) The right to be free of abuse, neglect, and exploitation as defined in Texas Family Code §261.401;

Medium-High (5) The right to be free from any harsh, cruel, unusual, unnecessary, demeaning, or humiliating punishment, which includes:

High (A) Shaking the child;

Medium-High (B) Subjecting the child to corporal punishment;

Medium-High (C) Threatening the child with corporal punishment;

Medium (D) Any unproductive work that serves no purpose except to demean the child, such as moving rocks from one pile to another or digging a hole and then filling it in;

Medium-High (E) Denying the child food, sleep, toileting facilities, mail, or family visits as punishment;

Medium-High (F) Subjecting the child to remarks that belittle or ridicule the child or the child's family; and

Medium (G) Threatening the child with the loss of placement or shelter as punishment;

(continued)

Medium-High (6) The right to discipline that is appropriate to the child's age and developmental level;

Medium (7) The right to have restrictions or disciplinary consequences explained to him when the measures are imposed;

High (8) The right to a humane environment, including any treatment environment, which provides reasonable protection from harm and appropriate privacy for personal needs;

Medium-Low (9) The right to receive educational services appropriate to the child's age and developmental level;

Medium (10) The right to appropriate equipment and supplies for, and training in, personal care, hygiene, and grooming;

Medium (11) The right to live as normal a life as possible, including:

(A) Having normal interaction and experiences within the foster family and participating in foster family activities; and

(B) Engaging in age and developmentally appropriate childhood activities, such as extracurricular activities, social activities in and out of school, and employment opportunities.

Medium (12) The right to have adequate personal clothing, which must be suitable to his age and size and comparable to the clothing of other children in the community, and reasonable opportunities to select his clothing;

Medium-Low (13) The right to have personal possessions at his home and to acquire additional possessions within reasonable limits;

Medium-High (14) The right to be provided with adequate protective clothing against natural elements such as rain, snow, wind, cold, sun, and insects;

Medium (15) The right to maintain regular contact with his family unless the child's best interest, appropriate professionals, or court necessitates restrictions;

Medium (16) The rights to send and receive uncensored mail, to have telephone conversations, keep a personal journal and to have visitors, unless the child's best interest, appropriate professionals, or court order necessitates restrictions;

Medium-Low (17) The right to hire independent mental health professionals, medical professionals, and attorneys at his own expense;

Medium-Low (18) The right to be compensated for any work done for the agency or home as part of the child's service plan or vocational training, with the exception of assigned routine duties that relate to the child's living environment, such as cleaning his room, or other chores, or work assigned as a disciplinary measure;

Medium-Low (19) The right to have personal earnings, allowances, possessions, and gifts as the child's personal property;

(continued)

Medium (20) The right to be able to communicate in a language or any other means that is understandable to the child at admission or within a reasonable time after an emergency admission of a child, if applicable. You must make every effort to place a child with foster parent(s) who can communicate with the child. If these efforts are not successful, you must document in the preliminary service plan your plan to meet the communication needs of the child;

Medium-Low (21) The right to confidential care and treatment;

Medium-Low (22) The right to consent in writing before permitting any publicity or fund raising activity for the agency, including the use of his photograph;

Medium-Low (23) The right not to be required to make public statements acknowledging his gratitude to the foster home or agency;

Medium-High (24) The right to be free of unnecessary or excessive medication;

Medium (25) The right to have a comprehensive service plan that addresses the child's needs, including transitional and discharge planning;

Medium (26) The right to participate in the development and review of his service plan within the limits of the child's comprehension and ability to manage the information;

Medium (27) The right to receive emotional, mental health, or chemical dependency treatment separately from adults (other than young adults) who are receiving services;

Medium-High (28) The right to receive appropriate treatment for physical problems that affect his treatment or safety;

Medium (29) The right to be free from pressure to get an abortion, relinquish her child for adoption, or to parent her child, if applicable; and

High (30) The right to report abuse, neglect, exploitation, or violation of personal rights without fear of punishment, interference, coercion, or retaliation.

Helpful Information

Although Child Protective Services (CPS) distributes a Bill of Rights to children in CPS conservatorship, you are still required to inform children and parents of the child rights listed in minimum standards. The CPS Bill of Rights does not include all child rights listed in minimum standards and is not intended to meet minimum standards requirements. You are still required to inform children and parents of all child rights listed in the minimum standards.

§749.1005. How must I inform a child and the child's parents of their rights?

January 2007

Medium (a) Within seven days after you admit a child into your agency, you must review the child's rights with the child and a child's parent, unless the parent's consent is not required. You must also provide the child and a child's parent with a written copy of the child's rights.

(b) Child rights must be written in:

Medium (1) Simple, non-technical terms; and

Medium (2) English, unless the person does not understand English. The child's rights must be written in the person's primary language, if possible.

Medium (c) If the person you are informing has a visual or auditory impairment, you must explain the child's rights in a manner that is understandable to the person.

Medium (d) The person you are informing of the child's rights must sign a statement indicating that the person has read and understands these rights. You must put the signed copy in the child's record.

§749.1007. What are a child's rights regarding education?

January 2007

Medium-Low (a) A child must have an appropriate education through participation in an educational/vocational program in the most appropriate and least restrictive educational settings, for example: attending regular classes conducted in an accredited elementary, middle, or secondary school within the community.

(b) Foster parents and caregivers must, as applicable:

Medium-Low (1) Attend and participate in school staffings, conferences, and education planning meetings;

Medium-Low (2) Make reasonable efforts to allow the child to participate in extracurricular activities; and

Medium-Low (3) Make reasonable efforts to allow the child to participate in school extracurricular activities to the extent of his interests and abilities and in accordance with his service plan.

§749.1009. What right does a child have regarding contact with a parent?

January 2007

Medium (a) You must allow contact between a child and his parent whose parental rights have not been terminated according to:

Medium-Low (1) Your policies; and

Medium (2) The provisions of a court order or any visitation agreement.

(b) You must document in the child's record:

Medium-Low (1) Any plans for contact between the child and a parent; and

Medium (2) Any decision to limit contact with a parent.

(continued)

(c) Before you can temporarily restrict ongoing contacts or communication between the child and a parent, your child placement management staff must:

Medium-Low (1) Explain the reasons for the restrictions to the child and the child's parent; and

Medium-Low (2) Document the reasons in the child's record.

Medium (d) Restrictions imposed by you that continue more than 30 days must be re-evaluated monthly by your child placement management staff, who also must:

Medium-Low (1) Explain the reasons for the continued restrictions to the child and the child's parents; and

Medium-Low (2) Document the reasons in the child's record.

Medium-Low (e) If you limit communications or visits with a parent for practical reasons, such as geographical distance or expense, you must discuss the limits with the child and the child's parents. You must document the limits in the child's record.

§749.1011. What right does a child have regarding contact with siblings?

September 2010

Medium (a) A child must have a reasonable opportunity for sibling visits and contacts in an effort to preserve sibling relationships.

Medium-Low (b) You must address plans for sibling visits and contacts in the child's record.

Medium (c) When you restrict sibling contact, you must include justification in the child's record. If the restriction lasts more than 90 days, you must document the justification for continuing the restriction in the child's record at least every 90 days.

Medium (d) If barriers to visits exist, such as unavoidable geographic distance and expense issues, the agency must make provisions for sibling contact through letters, telephone calls, or some other means.

§749.1013. What right to privacy does a child have with respect to his contact with others?

September 2010

(a) Except as determined by child placement management staff or the child's parent, you may not:

Medium (1) Open or read the child's incoming or outgoing mail, including electronic mail, unless necessary to assist the child with reading or writing; or

Medium (2) Listen to or screen the child's telephone calls unless the child needs assistance with using the telephone.

(b) You must document in the child's record:

Medium-Low (1) Any reason for restrictions on the child's mail or telephone calls that you impose; and

Medium-Low (2) A listing of the mail or telephone calls that you restrict.

(continued)

Medium-Low (c) You must inform the child and parent about restrictions that you place on the child.

Medium (d) Restrictions imposed by you that continue for more than 30 days must be re-evaluated monthly by your child placement management staff, who also must:

Medium-Low (1) Explain the reasons for the continued restrictions to the child; and

Medium-Low (2) Document the reasons in the child's record.

Helpful Information

Minimum standards §§749.1009, 749.1011, and 749.1013 apply only to contact restrictions imposed by you. Limitations or restrictions on contact imposed by the court or by the child's parent(s) are not subject to the explanation, documentation, and re-evaluation requirements in these rules. However, it is recommended that you retain written notice of any contact restrictions imposed by the court or parent(s), so that you will have documentation of who imposed the restrictions.

§749.1015. Under what circumstances may I conduct a search for prohibited items or items that endanger a child's safety?

January 2007

Medium-Low (a) A child's possessions must be free of unreasonable searches and unreasonable removal of personal items.

Medium-Low (b) You may search a child, his possessions, or his room only when you have reasonable suspicion:

(1) Of the presence of a prohibited item or an item that endangers the child's safety;

(2) That the child made suicidal threats or threatened to hurt himself or others; or

(3) That the child or children was involved in theft.

Medium (c) Only a caregiver may conduct searches that involve the removal of clothing, other than outer clothing, such as coats, jackets, hats, gloves, shoes, or socks.

Medium-High (d) If a search of a child who is five years old or younger involves the removal of clothing (other than outer clothing), another adult must witness the search.

Medium-High (e) If a search of a child who is over the age of five involves the removal of clothing (other than outer clothing), an adult of the same gender must witness the search.

Medium-High (f) The caregiver must ensure that other children do not witness a search that involves the removal of clothing, other than outer clothing.

§749.1017. May a caregiver conduct a body cavity search of a child in care?

January 2007

High With the exception of a child's mouth, a caregiver may not conduct a body cavity search of a child in care.

§749.1019. What must a caregiver document regarding a search?

January 2007

Medium-Low A caregiver must document the following in the child's record when conducting a search if it results in the removal of personal items or clothing worn by the child:

Medium-Low (1) The date of the search;

Medium-Low (2) The name of the child;

Low (3) Reason for the search;

Low (4) A description of what was searched;

Medium-Low (5) The articles of clothing removed, if applicable;

Medium-Low (6) The name of the person conducting the search;

Medium-Low (7) The name of the witness, if applicable;

Low (8) The results of the search; and

Medium-Low (9) The resolution of the issue with the child or children involved.

§749.1021. What techniques am I prohibited from using on a child?

January 2007

You may not use any of the following techniques on a child:

Medium-High (1) Chemical restraints, mechanical restraints, and seclusion. For more information on emergency behavior intervention, see Subchapter L of this chapter (relating to Foster Care Services: Emergency Behavior Intervention);

Medium-High (2) Aversive conditioning, which includes, but is not limited to, any technique designed to or likely to cause a child physical pain, the application of startling stimuli, and the release of noxious stimuli or toxic sprays, mists, or substances in proximity to the child's face;

Medium-High (3) Pressure points;

Medium-High (4) Rebirthing therapy; and

Medium-High (5) Hug and/or holding therapy.

Subchapter H, Foster Care Services: Admission and Placement

Division 1, Admissions

§749.1101. Who may I admit?

September 2010

Medium (a) You may only admit children or young adults who meet your admission policy guidelines and whose needs you can meet. If you adopt a change in your admission policies that requires a change in the conditions of your permit, you must request an amendment to your permit with us.

Medium-High (b) Each placement must meet the child's physical, medical, recreational, educational, and emotional needs as identified in the child's admission assessment.

§749.1103. After a child in my care turns 18 years old, may the person remain in my care?

September 2010

Medium-Low (a) A young adult may remain in your care until his 23rd birthday in order to:

(1) Transition to independence, including attending college or vocational or technical training;

(2) Attend high school, a program leading to a high school diploma, or GED classes;

(3) Complete your program; or

(4) Stay with a minor sibling.

Medium-Low (b) A young adult who turns 18 in your care may remain in your care indefinitely if the person:

(1) Continues to need the same level of care; and

(2) Is unlikely to physically and/or intellectually progress over time.

§749.1105. May I admit a young adult into care?

September 2010

(no weight) (a) You may admit a young adult into your transitional living program.

Medium-Low (b) For other programs or services, the young adult must:

(1) Come immediately from another residential child-care operation if the reason for admittance is consistent with a condition listed in §749.1103 of this title (relating to After a child in my care turns 18 years old, may the person remain in my care?); or

(2) Be in the care of the Texas Department of Family and Protective Services.

Medium-Low (c) A young adult may remain in your care until his 23rd birthday.

Omitted from this publication:

§749.1107. What information must I document in the child's record at the time of admission?

§749.1109. What is a placement agreement?

§749.1111. What orientation must I provide a child?

September 2010

Medium (a) Within seven days of admission, you must provide orientation to each newly admitted child who is five years old or older. You must gear orientation to the intellectual level of the child.

Medium-Low (b) Orientation must include information about your policies on the following:

Medium-Low (1) Visitation, including family visitation and overnight visitation;

Medium-Low (2) Mail;

Medium-Low (3) Telephone calls;

Low (4) Gifts;

Medium-Low (5) Personal possessions, including any limits placed on the possessions the child may or may not have;

Medium-High (6) Emergency behavior intervention, including your agency's policies and practices on the use of personal restraint and the child's input on preferred de-escalation techniques that caregivers can use to assist the child in the de-escalation process;

Medium-High (7) Discipline;

Medium-Low (8) The religious program and practices;

Low (9) The educational program;

Medium-Low (10) Trips away from the home;

Medium-Low (11) Program expectations and rules; and

Medium-Low (12) Grievance procedures.

(continued)

Low (c) You must document in the child's record when the orientation occurred, any item that the orientation did not include, and the reason that the orientation did not include that item.

Omitted from this publication:

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

§749.1115. What information must I provide caregivers when I admit a child?

January 2007

Medium (a) By the day you admit the child for care, you must provide the caregivers responsible for the child's care with information about the child's immediate needs, such as enrolling the child in school or obtaining needed medical care or clothing.

Medium-High (b) You must inform appropriate caregivers of any special needs, such as medical or dietary needs or conditions.

Omitted from this publication:

Division 2, Admission Assessment

Division 3, Required Admission Information

§749.1151. What are the medical requirements when I admit a child into care?

September 2010

Medium-High (a) You must ensure that the child has a medical examination by a health-care professional within 30 days after the date of admission. This exam is not required if you have documentation that the child has had a medical examination within the past year, including documentation in the child's health passport if he is in DFPS conservatorship.

High (b) If you admit a child with primary medical needs, you must provide the child with a medical examination by a health-care professional within seven days before or three days after admission.

High (c) If a child admitted shows symptoms of abuse or illness, a health-care professional must examine the child immediately.

Medium-Low (d) The reports and findings of any medical examination must be documented in the child's record according to §749.1401(b) and (c) of this title (relating to What general medical requirements must my agency meet?).

Helpful Information

Regarding subsection (a), there is one exception for those operations that contract with Child Protective Services. A child new to state conservatorship must receive a medical exam (Texas Health Steps Checkup) within 30 days after the date of admission into the foster care system. This must occur even if the child's health passport indicates that the child received a medical exam prior to entering the foster care system.

§749.1153. What are the dental requirements when I admit a child into care?

September 2010

Medium-Low (a) If the child is younger than three years old and a physician recommends a dental examination, then you must ensure that a dentist examines the child.

Medium-Low (b) A child three years old or older must have a dental appointment scheduled with a dentist within 30 days after the date of admission, and the examination must occur within 90 days after the date of admission. A dental examination is not required if you have documentation that the child has had a dental examination within the past year, including documentation in the child's health passport if he is in DFPS conservatorship.

Medium-Low (c) The report and findings of the dental examination must be documented in the child's record according to §749.1409(b) and (c) of this title (relating to What general dental requirements must my agency meet?).

Omitted from this publication:

§749.1155. What must I document when I re-admit a child for care?

Division 4, Emergency Admission

Division 5, Foster Care Placement

§749.1251. What are the requirements for pre-placement visits for a child?

January 2007

Medium-Low (a) A child over six months of age must visit the foster home at least once before placement.

Medium-Low (b) There must be a meaningful interval between the pre-placement visit and the placement. This interval must be at least sufficient to allow a child and foster parents to have privacy, an opportunity to discuss and consider placement, and to have their questions, opinions, and concerns addressed.

Medium-Low (c) You must document pre-placement visits in the child's record.

(no weight) (d) Pre-placement visits are not required for emergency admissions.

§749.1253. What must staff do to prepare a child for a placement?

January 2007

Medium-Low (a) The child-placement staff must discuss with the child the circumstances that make the placement necessary, as appropriate to the child's age and ability to respond orally and behaviorally to such a discussion. The discussion must take place prior to or at the time of the placement of a child.

(b) You must document into the child's record:

Medium-Low (1) That the discussion occurred; and

Medium-Low (2) The child's understanding of and response to the discussions and the placement.

§749.1255. What information from an admission assessment must I share with the caregivers responsible for the child's care?

January 2007

Medium-High (a) In a non-emergency placement, you must share all information from the admission assessment with the foster parents or caregiver responsible for the child's care prior to placement.

(b) In an emergency placement, you must share with the foster parents or caregiver responsible for the child's care:

Medium-High (1) At the time of placement, all available information relating to the child's needs and your plans for care and management; and

Medium-High (2) Within 10 days of completing the admission assessment, all information from the admission assessment.

(c) You must document the following in the child's record:

Medium-Low (1) The information you share with the caregiver;

Medium (2) Any information you do not share and the reason why you did not share the information; and

Medium-Low (3) How the placement is capable of meeting the child's needs.

Division 6, Subsequent Placement

§749.1281. What are the requirements when I move a child from one foster home to another?

September 2010

(a) If the move is not an emergency, child placement management staff must:

Medium (1) Review and approve the move before you move the child to the new placement;

Medium-Low (2) Document the review and approval in the child's record, including signature and date; and

Medium (3) Comply with the pre-placement requirements in §749.1251 of this title (relating to What are the requirements for pre-placement visits for a child?).

(b) If the move is an emergency, child placement management staff must:

Medium (1) Give verbal approval before the move; and

Medium (2) Document the verbal approval in the child's record within 10 days of the placement. Documentation must be signed and dated and include the date verbal approval was given and circumstances of the emergency placement.

Medium (c) For all moves, child placement staff must prepare a child according to §749.1253 of this title (relating to What must staff do to prepare a child for a placement?).

Division 7, Post-Placement Contact

§749.1291. What are the requirements for contact between child placement staff and children in foster care?

December 2014

High (a) Except for children receiving treatment services for primary medical needs, child placement staff must have monthly face-to-face contact with a child in care. However, staff can miss two visits per year, provided a child does not go longer than 60 days without a visit.

High (b) For children receiving treatment services for primary medical needs, child placement staff or a nurse on staff must have face-to-face contact with a child in care every 15 days. However, staff can miss two visits per year, provided a child does not go longer than 30 days without a visit.

(c) These contacts are to ensure the:

Medium-High (1) Child is safe;

Medium-High (2) Needs of a child are being met; and

Medium-High (3) Placement continues to be appropriate.

(d) If the child is able to communicate in a meaningful way, the contact with the child must:

Medium-High (1) Be for a length of time sufficient to address the child's needs and determine the appropriateness of the placement;

Medium-High (2) Provide an opportunity to meet in private; and

Medium-High (3) Provide an opportunity for the child to express his feelings about how the placement is working out.

Medium-High (e) If the child is non-verbal or pre-verbal, the contact with the child must be for a length of time sufficient for an appropriate observation of the child and the child's placement, including an assessment of any changes in behavior or developmental progress or delays as well as a verification that the placement is meeting the child's needs as specified in the service plan.

Medium (f) The required contacts must be significant and must be documented in the child's record. The documentation in the child's record must be sufficient to address the requirements of subsections (d) and (e) of this section.

Medium (g) Child placement management staff must review and approve documentation of contacts.

Subchapter I, Foster Care Services: Service Planning, Discharge

Division 1, Service Plans

§749.1301. What are the requirements for a preliminary service plan?

January 2007

Medium (a) You must complete a preliminary service plan that addresses the immediate needs of the child, such as enrolling the child in school or obtaining needed medical care or clothing, within 72 hours of the child's admission.

(b) In addition, for a child receiving treatment services the preliminary service plan must include:

Medium (1) A description of the child's immediate treatment and care needs;

Medium (2) A description of the child's immediate, educational, medical, and dental needs, including possible side effects of medications or treatment prescribed to the child;

Medium (3) A description of how you will meet the child's needs, including any necessary increased supervision or follow-up actions of possible side effects of medication or treatment provided to the child;

Medium-High (4) The identification of any issues or concerns the child may have that could escalate a child's behavior. Identification of a child's issues or concerns must serve to avoid the use of unnecessary emergency behavior interventions with the child. Child concerns may include issues with food, eye contact, physical touch, personal property, or certain topics; and

Medium (5) A designation of who will be responsible for meeting each of the child's needs.

Medium-Low (c) The plan must be compatible with the information included in the child's admission assessment.

Medium-Low (d) You must document the plan in the child's record.

Medium (e) You must inform each professional service provider and caregiver working with a child about the child's preliminary service plan.

Medium (f) You must implement and follow the preliminary service plan.

Best Practice Suggestion

It is a good idea to include in service plans specific information about the situations that trigger significant emotional responses for the child (e.g., enclosed spaces, darkness, bedtime), successful intervention strategies to effectively de-escalate those responses, anger and anxiety management options to assist the child in calming, techniques for self-management, and specific goals that address the targeted behaviors that most often lead to emergency behavior interventions for the child.

§749.1305. Who must be involved in developing the preliminary service plan?

January 2007

Medium-Low The child placement staff must develop, sign, and date the preliminary service plan.

§749.1307. When must I complete an initial service plan?

January 2007

Medium You must complete the initial service plan within 40 days after you admit the child.

Omitted from this publication:

§749.1309. What must a child's initial service plan include?

§749.1311. Who must be involved in developing an initial service plan?

December 2014

Medium (a) A service planning team must meet (e.g. face-to-face, video conference, or teleconference) to discuss and develop the service plan. The team must consist of:

Medium (1) At least one of the child's current caregivers;

Medium (2) At least one professional service provider who provides direct services to the child; and

Medium (3) If you are providing treatment services to the child, at least two of the following professionals:

(A) A licensed professional counselor;

(B) A psychologist;

(C) A psychiatrist or physician;

(D) A licensed registered nurse;

(E) A licensed master's level social worker;

(F) A licensed or registered occupational therapist; or

(G) Any other person in a related discipline or profession that is licensed or regulated in accordance with state law.

Medium (b) The child, as appropriate, the parents, and the foster parents must be invited to the service planning meeting and should participate and provide input into the development of the service plan.

Omitted from this publication:

§749.1313. When must I inform the child's parents and foster parents of an initial service plan meeting?

§749.1315. Must a professional service provider or a professional who must participate in a child's service plan be an employee of my agency?

§749.1317. What roles do professional service providers have in service planning?

§749.1319. What must I document regarding a professional service provider's participation in the development of an initial service plan?

§749.1321. With whom do I share the initial service plan?

January 2007

(a) You must give a copy or summary of the initial service plan to the:

Low (1) Child, when appropriate;

Low (2) Child's parents; and

Medium (3) Child's caregivers.

Low (b) If you do not share the service plan or summary with the child, you must document your justification for not sharing the plan in the child's record.

Low (c) You must document in the child's record that you provided a copy or summary of the service plan to the child's parents.

§749.1323. When must I implement a service plan?

January 2007

Medium-Low You must implement and follow an initial service plan as soon as all of the service planning team members have reviewed and signed the plan, but no later than 10 days after the date of the service-planning meeting.

Division 2, Service Plan Review and Updates

§749.1331. How often must I review and update a service plan?

January 2007

Except for when the child's placement within your agency changes because of a change in the child's needs, you must review and update the service plan as follows:

	Type of Service	Review and Update
Medium-Low	(1) Child-care services	At least 180 days from the date of the child's last service plan.
Medium-Low	(2) Treatment services for emotional disorder, pervasive developmental disorder, or primary medical needs	At least 90 days from the date of the child's last service plan.
Medium-Low	(3) Treatment services for mental retardation	In the first year of care, the plan must be reviewed at least every 180 days from the date of the child's last service plan. Thereafter, the plan must be reviewed at least annually from the date of the child's last service plan review.

§749.1333. How does a child's transfer affect the timing of the review of the child's service plan?

January 2007

Medium (a) You must review a child's service plan whenever the child's placement changes because of a change in the child's needs.

(b) If the child's placement changes for another reason:

Medium-Low (1) The child' service planning team must approve the decision not to review the plan; and

Medium-Low (2) You must document the decision not to review the plan.

Omitted from this publication:

§749.1335. How do I review and update a service plan?

§749.1337. Are the notification, participation, implementation, and documentation requirements for a service plan review and update the same as for an initial service plan?

January 2007

Medium-Low Yes, the same requirements found in Division 1 of this subchapter (relating to Service Plans) apply to a service plan review and update.

§749.1339. How often must I re-evaluate the intellectual functioning of a child receiving treatment services for mental retardation?

January 2007

Medium-Low (a) Each child's intellectual functioning must be re-evaluated at least every three years by a psychologist qualified to provide psychological testing; or

Medium-Low (b) A psychologist must determine the need and frequency for a specific child's intellectual functioning to be re-evaluated, such as a young child who may require more frequent testing. This determination, including justification for the time frame, must be documented in the child's record annually by the service planning team.

Division 3, Discharge and Transfer Planning

Best Practice Suggestion

If you suspect the person picking up a child is under the influence of drugs or alcohol, you have the option of contacting local law enforcement to request their assistance.

You may not legally prevent the child from being picked up by a parent or person designated by the parent.

You may want to ask to see identification of persons you do not know.

§749.1361. What does a "transfer" of a child in care mean?

September 2010

(no weight) A transfer refers to a child in care who is moved from one of your programs to another one of your programs operated under the same permit or at the same location. For example, a child may transfer from one foster home in which he was receiving treatment services to another foster home that offers a transitional living program. A child may also transfer from your child-placing agency to your general residential operation, if your child-placing agency office is located on the same property as your general residential operation. This term does not apply if the child experiences a change in programs or services but remains in the same foster home. This term also does not apply if the child moves from one foster home to another for a reason other than a need for different services/programming, such as moving to be closer to siblings.

§749.1363. Who must plan a child's non-emergency discharge or transfer?

January 2007

(a) You must involve at least the following persons in planning the child's non-emergency discharge or transfer:

Medium-Low (1) At least one of the child's current caregivers; and

Medium-Low (2) At least one professional service provider involved in the child's service planning.

(b) You must invite the following persons to participate in planning the child's non-emergency discharge or transfer, if appropriate:

Medium-Low (1) The child;

Medium-Low (2) The child's parent(s); and

Low (3) Any other person pertinent to the child's care.

Low (c) If you are unable to plan the transfer or discharge with the persons required in subsections (a) and (b) of this section, you must document in the child's record the reason why.

(continued)

Medium-Low (d) If a child in your care is not receiving treatment services, you must inform him of his non-emergency discharge or transfer at least four days prior to the date of the discharge or transfer, unless your licensed child-placing agency administrator or child placement management staff has clear justification for not giving him such notice. The licensed child-placing agency administrator or child placement management staff who determines the justification for the child not having the advance notice of the discharge or transfer, must put the justification in writing and sign and date it. The justification must be in the child's record.

Medium-Low (e) If a child in your care is receiving treatment services, you must inform him of his non-emergency discharge or transfer at least four days prior to the date of the discharge or transfer, unless your treatment director, three members of the child's service planning team, or the child's psychiatrist or psychologist has a justification for not giving him such notice. Whoever determines the justification for the child not having the advance notice of the discharge or transfer must put the justification in writing and sign and date it. The justification must be in the child's record.

§749.1365. May a foster home release a child to any person without my consent?

January 2007

High No, the foster home must not release a child to any person without your consent.

§749.1367. To whom can I discharge a child in a non-emergency situation?

January 2007

High You must discharge a child to the child's parent or to anyone with written authorization from the parent or a person authorized by the court or by law to assume custody of the child.

§749.1369. How do I discharge or transfer a child who is an immediate danger to himself or others?

January 2007

Medium-High The child's caregiver(s) or the child placement staff must accompany the child to the receiving operation, agency, or person unless the child's parent or law enforcement transports the child.

Omitted from this publication:

§749.1371. What must I document in the child's record at the time of a discharge or transfer?

§749.1373. When I discharge a child, what information must I provide to the next placement or caregiver?

§749.1377. What constitutes an emergency discharge or transfer?

Subchapter J, Foster Care Services: Medical and Dental

Division 1, Medical and Dental Care

§749.1401. What general medical requirements must my agency meet?

September 2010

(a) A child in your care must receive medical care:

Medium-High (1) Initially, according to the requirements in §749.1151 of this title (relating to What are the medical requirements when I admit a child into care?);

High (2) As needed for injury, illness, and pain; and

Medium-High (3) As needed for ongoing maintenance of medical health.

Medium (b) The child's record must include a written record of each medical examination specifying:

Medium (1) The date of the examination;

Medium (2) The procedures completed;

Medium (3) The follow-up treatment recommended and any appointments scheduled;

Medium (4) The child's refusal to accept medical treatment, if applicable;

Medium (5) A copy of the results of the medical examination;

Medium (6) If the medical examination is a result of an injury or medical incident, the documentation of the circumstances surrounding the incident, including the date and time of the incident; and

Medium (7) Any other documentation provided by the health-care professional who performed the examination.

Medium (c) For a child in DFPS conservatorship, you must supplement any information already documented in the child's health passport in order to comply with subsection (b) of this section. In your written record for the child, you are not required to repeat information that is already in the child's health passport.

Medium-High (d) You must obtain follow-up medical treatment as recommended by the health-care professional.

§749.1403. Who determines the need and frequency for ongoing maintenance of medical care and treatment for a child?

January 2007

Medium-High A health-care professional determines the need and frequency for ongoing maintenance of medical care and treatment for a child.

§749.1405. Who must perform medical care examinations and provide medical treatment for a child?

January 2007

Medium-High A health-care professional licensed in the United States to practice in an appropriate medical or health-care discipline must perform medical care examinations and provide medical treatment for a child.

§749.1409. What general dental requirements must my agency meet?

September 2010

(a) A child in your care must receive dental care:

Medium (1) Initially, according to the requirements in §749.1153 of this title (relating to What are the dental requirements when I admit a child into care?);

Medium (2) At as early an age as necessary;

Medium-High (3) As needed for relief of pain and infections; and

Medium-High (4) As needed for ongoing maintenance of dental health.

Medium-Low (b) The child's record must include a written record of each dental examination specifying the:

Medium-Low (1) Date of the examination;

Medium-Low (2) Procedures completed;

Medium-Low (3) Follow-up treatment recommended and any appointments scheduled;

Medium-Low (4) The child's refusal to accept dental treatment, if applicable; and

Medium-Low (5) A copy of the results of the dental examination.

Medium-Low (c) For a child in DFPS conservatorship, you must supplement any information already documented in the child's health passport in order to comply with subsection (b) of this section. In your written record for the child, you are not required to repeat information that is already in the child's health passport.

Medium-High (d) You must obtain follow-up dental work indicated by the examination, such as treatment of cavities and cleaning.

Best Practice Suggestion

Here are some best practices for use and storage of a child's toothbrush:

- *Soft-bristle toothbrushes, provided for each child's individual use after meals and snack times, which are:*
  - *Age appropriate;*
  - *Labeled with the child's full name;*
  - *Stored in a manner that prevents the toothbrushes from touching each other and the bristles are not in contact with any surface during storage; and*
  - *Replaced immediately if the bristles become splayed.*

(continued)

Best Practice Suggestion (continued)

- *For children under six years old, toothbrushes stored out of children's reach when not in use.*

Here are some best practices for use of toothpaste:

- *Provide fluoride toothpaste for children three years old or older, or for children who have learned how to spit out toothpaste when brushing.*
- *Use only a pea-sized amount of toothpaste for children under six years old. Provide adult supervision in the use of toothpaste for children under six years old or children who have not learned how to spit out toothpaste when brushing. This helps to prevent swallowing the toothpaste and possible fluoride poisoning.*

§749.1411. Who must determine the frequency and need for ongoing maintenance of dental health for a child?

January 2007

Medium A licensed dentist must determine the frequency and need for ongoing maintenance of dental health for a child. You must comply with dentist recommendations for examinations and treatment for each child.

§749.1413. Who must perform dental examinations and provide dental treatment?

January 2007

Medium A health-care professional licensed in the United States to practice dentistry must provide dental care.

§749.1415. What health precautions must I take if a person in care, employee, caregiver, someone else in one of my foster homes, or someone else in my agency has a communicable disease?

September 2010

Medium-High (a) You must notify the Department of State Health Services (DSHS) after you become aware that a person in your care, an employee, a contract service provider, a caregiver, someone else in one of your foster homes, or a volunteer has contracted a communicable disease that the law requires you to report to the DSHS as specified in 25 TAC 97, Subchapter A (relating to Control of Communicable Diseases).

(b) If a person in your care has symptoms of a communicable disease that is reportable to the DSHS, you must:

Medium-High (1) Consult a health-care professional about the person's treatment;

Medium-High (2) Follow the treating physician's orders, which may include separating the person from others;

Medium-Low (3) Notify the person's parent, if applicable; and

Medium-High (4) Sanitize all items used by the sick person before another person uses one of them.

(continued)

Medium-High (c) If a health-care professional diagnoses a person in care with a communicable disease that is reportable to Department of State Health Services (DSHS), a health-care professional must authorize the person's participation in routine activity at the foster home. The authorization must:

Medium (1) Be in the person's record;

Medium (2) Include a written statement that the person will not pose a serious threat to the health of others; and

Medium (3) Include any specific instructions and precautions to be taken for the protection of others.

Medium (d) If an employee, a contract service provider, a caregiver, someone else in one of your foster homes, or a volunteer has a communicable disease that is reportable to Department of State Health Services (DSHS), you must obtain written authorization from a health-care professional for the person to be present at the agency or foster home. The written authorization must include a statement that the person will not pose a serious threat to the health of others.

Medium-High (e) You must follow any written instructions and precautions specified by a health-care professional.

Helpful Information

Communicable diseases that exclude a child from routine activity are defined by the Department of State Health Services (DSHS) in 25 TAC §97.7 (relating to Diseases Requiring Exclusion from Child-Care Facilities and Schools).

§749.1417. Who must have a tuberculosis (TB) examination?

September 2010

Medium (a) All persons over the age of one year old must have a documented tuberculosis screening that was conducted as recommended by the Center for Disease Control (CDC) within 30 days before or after beginning to live, work, or volunteer at your operation unless the person:

(1) Has lived, worked, or volunteered at a regulated residential child-care operation within the previous 12 months. For example, an employee beginning employment in a regulated residential child-care operation for the first time would need a baseline tuberculosis screening. Employment in a different residential child-care operation would not require a new screening, as long as documentation in paragraph (2) of this subsection is also provided. If the employee left employment in regulated residential child-care for more than 12 months and then returned, a new screening would be required; and

(2) Provides documentation of a tuberculosis screening.

(continued)

Medium-Low (b) Documentation must consist of a copy of the results of the baseline tuberculosis screening or chest radiograph, which must be in the person's record at your operation within 40 days of the person beginning to live, work, or volunteer at your operation. Documentation of a copy of the results of treatment (if treatment is required) must also be maintained in the person's record. For a child in DFPS conservatorship, documentation in the child's health passport is sufficient.

(no weight) (c) Except on the advice of a physician, no additional screening is required for a person who continues to live, work, and/or volunteer in a regulated residential child-care setting.

§749.1421. What immunizations must a child in my care have?

September 2010

Medium-High (a) Each child that you admit must meet and continue to meet applicable immunization requirements specified by §42.043 of the Human Resources Code and the Department of State Health Services.

Medium-Low (b) You must maintain current immunizations records for each child in your care. For a child in DFPS conservatorship, documentation in the child's health passport is sufficient.

Medium-High (c) Unless the child is exempt from immunization requirements, all immunizations required for the child's age must:

(1) Be completed by the date of admission; or

(2) Begin within 30 days after admission.

§749.1423. What are the exemptions from immunization requirements?

January 2007

Medium Exemptions for immunization requirements must meet criteria specified by:

(1) §42.043 of the Human Resources Code; or

(2) The Department of State Health Services rules in 25 TAC §97.62 (relating to Exclusions from Compliance).

Helpful Information

You can find more information in the Department of State Health Services' rules at 25 TAC Chapter 97, Subchapter B (relating to Immunization Requirements in Texas Elementary and Secondary Schools and Institutions of Higher Education). You can access it on the Department of State Health Services Internet website at: www.dshs.state.tx.us/immunize, or you may obtain a copy from your local or state health department.

§749.1425. What documentation is acceptable for an immunization record?

September 2010

(a) An original or facsimile of the immunization record must include:

Medium-Low (1) The child's name and birth date;

Medium-Low (2) The number of doses and vaccine type;

Medium-Low (3) The month, day, and year the child received each vaccination; and

Medium (4) One of the following:

(A) A signature or rubber stamp signature from the health-care professional who administered the vaccine; or

(B) A registered nurse's documentation of the immunization that is provided by a health-care professional, as long as the health-care professional's name and qualifications are documented.

Medium (b) Documentation of an immunization record on file at your agency may be:

(1) The original record;

(2) A photocopy;

(3) An official immunization record generated from a state or local health authority, such as a registry;

(4) A record received from school officials, including a record from another state; or

(5) The child's health passport, for a child in DFPS conservatorship.

§749.1427. Must children in my care have a vision and hearing screening?

September 2010

Medium (a) You must ensure that each child you admit is screened for possible vision and hearing problems that meet the requirements of the Special Senses and Communication Disorders Act, Health and Safety Code, Chapter 36. If problems are detected, the child must have a professional vision and hearing examination.

Medium-Low (b) For each child required to be screened, you must keep one of the following in each child's record:

(1) The individual vision and hearing screening results; however, results found in the child's health passport if the child is in DFPS conservatorship are sufficient to meet this requirement;

(2) A signed statement from the child's parent that the child's screening records are current and on file at the program or school the child attends away from the agency. The statement must be dated and include the name, address, and telephone number of the program or school; or

(3) An affidavit from the child's parent stating that the vision or hearing screening and/or examination conflicts with the tenets or practices of a church or religious denomination of the parents.

(continued)

Helpful Information

You can refer to the Health and Safety Code, §36.011, for specific information on vision and hearing screening, including determining which children must be screened and the timeframes for screening. This information may be accessed on the Department of State Health Services' website at: www.dshs.state.tx.us/vhs/.

§749.1429. What must I do if a child in my care is identified as needing a diagnostic vision or hearing examination?

January 2007

You must:

Medium (1) Schedule the child for professional examination and needed health services;

Medium (2) Ensure the professional and medical recommendations are carried out; and

Medium (3) Convey the information concerning the child's visual and/or hearing difficulty to the educational and agency caregivers, so the recommended adjustments can be made in programs.

§749.1431. What special equipment must I provide for a child with a physical disability?

January 2007

Medium-High When recommended by a physician or other health-care professional, you must ensure that a child with a physical disability has any special equipment recommended that can be reasonably obtained.

§749.1433. How often must the physician review a child's primary medical needs?

January 2007

(a) A licensed physician must review a child's primary medical needs:

Medium-High (1) At least every 90 days or on a schedule recommended by the child's physician; and

Medium-High (2) Whenever a medical or related problem occurs.

(b) The review must address:

Medium-High (1) Whether the child can continue to be cared for appropriately in the foster home; and

Medium-High (2) Any new or changed orders regarding the items outlined in §749.1135 of this title (relating to What are the additional requirements when I admit a child for treatment services?).

Medium (c) Documentation of each physician review must be filed in the child's record.

§749.1435. What are the requirements for using a nasogastric tube?

January 2007

High (a) Only the following may insert a nasogastric tube:

(1) A physician;

(2) A licensed nurse according to a physician's written orders; or

(3) A caregiver instructed by a licensed nurse according to a physician's written orders.

Medium (b) The caregiver must document each insertion in the child's record. The documentation for each insertion must include the:

Medium (1) Signature of the nurse or caregiver who inserted the tube; and

Medium (2) Date of the insertion.

High (c) The caregiver must follow the physician's written orders concerning the tube.

Division 2, Administration of Medication

§749.1461. What consent must I obtain to administer medications?

January 2007

Medium (a) You must obtain a general written consent to administer routine, preventive, and emergency medications.

Medium (b) You must obtain a written, signed, and dated consent, specific to the psychotropic medication to be administered, from the person legally authorized to give medical consent before administering a new psychotropic medication to a child, per §749.1603 of this title (relating to If my agency employs or contracts with a health-care professional who prescribes psychotropic medications to a child in care, what information must I provide the person legally authorized to give consent before requesting his consent for the child to be placed on psychotropic medication?) or §749.1605 of this title (relating to If my agency does not employ or contract with the health-care professional who prescribes psychotropic medications to a child in care, what information must I provide the person legally authorized to give medical consent prior to the health-care professional prescribing psychotropic medications to a child in care?).

§749.1463. What medication requirements must caregivers meet?

September 2010

Medium (a) To the best of their knowledge, caregivers must inform the person legally authorized to give medical consent of the benefits, risks, and side effects of all prescription medication and treatment procedures used and the medical consequences of refusing them, and/or provide the name and telephone number of the prescribing health-care professional for more information.

(b) Caregivers must:

High (1) Be informed about possible side effects of medications administered to the child;

Medium-High (2) Store all medication in the original container unless you have an additional container with the same label and instructions;

Medium-High (3) Administer all medications according to the instructions on the label or according to a prescribing health-care professional's subsequent signed orders;

Medium-High (4) Administer each child's medication within one hour of preparation;

High (5) Ensure the child has taken the medication as prescribed;

Medium-High (6) Ensure a person trained in and authorized to administer prescription medication administers the medication to a child in care unless the child is on a self-medication program;

Medium (7) Maintain any documentation provided by the health-care professional on the administration of current prescription medication;

High (8) Not physically force a child to take prescription medication;

High (9) Ensure that a child is not given any prescription medication or treatment except on written orders of a health-care professional;

High (10) Not borrow or administer prescription medication to a child that is prescribed to another person; and

High (11) Not administer prescription medication to more than one child from the same container. Only the child for whom the prescription medication was prescribed may use the medication.

§749.1469. What are the requirements for administering nonprescription medication and vitamins?

January 2007

Medium-High (a) You must follow the label and ensure the nonprescription medication is not contraindicated with any other medication prescribed to the child or the child's medical conditions.

(no weight) (b) You may give nonprescription medication or vitamins to more than one child from one container.

Division 3, Self-Administration of Medication

§749.1501. What are the requirements for a self-medication program?

September 2010

For a child to be on a self-medication program:

Medium (1) The child's parent must give written authorization for the child to be on the program;

Medium (2) The child's service plan must include the self-medication program and any requirements for caregiver supervision; and

Medium-High (3) The health-care professional who prescribed the medication must be consulted and any concerns of the health-care professional documented in the child's record.

§749.1503. Who must record a medication dosage if the child is on a self-medication program?

January 2007

Medium When a child who is on a self-medication program takes a dosage of the medication, the child may:

(1) Record the dosage if you have a system for reviewing the child's medication each day; or

(2) Report the medication to a caregiver, who must then do the actual recording.

Division 4, Medication Storage and Destruction

§749.1521. What medication storage requirements must a foster home meet?

September 2010

A foster home must:

High (1) Store medication in a locked container;

High (2) Keep medication inaccessible other than to caregivers responsible for stored medication;

Medium-High (3) Ensure the medication storage area has a separate container where medications "for external use only" are stored separately from other medications;

High (4) Store medication covered by Schedule II of the Texas Controlled Substances Act under double lock in a separate container. For example, a double lock can include a lock on the cabinet or filing cabinet and the door to the closet where medications are stored;

Medium-High (5) Make provisions for storing medication that requires refrigeration;

Medium (6) Keep medication storage area(s) clean and orderly;

(continued)

Medium-High (7) Remove discontinued medication immediately and store it in a separate locked area until it is destroyed;

Medium-High (8) Remove medication on or before the expiration date and store it in a separate locked area until it is destroyed;

Medium-High (9) Remove medication of a discharged or deceased child immediately and store it in a separate locked area until it is destroyed; and

Medium-High (10) Provide prescription medication to the person to whom a child is discharged or transferred if the child is taking the medication at that time.

§749.1523. What are the requirements for discontinued or expired medication?

January 2007

Medium Foster parents must properly destroy medication in accordance with state and federal law and in a way that ensures children do not have access to it, within 30 days after:

Medium (1) It has been discontinued for a child;

Medium (2) The expiration date has passed; or

Medium (3) The child has left care without the medication.

Division 5, Medication Records

§749.1541. What records must caregivers maintain for each child receiving medication?

September 2010

Medium-High (a) Caregivers must maintain a cumulative record of all:

(1) Prescription medication dispensed to each child; and

(2) Nonprescription medication, excluding vitamins, dispensed to a child under five years old.

(b) Caregivers must maintain the medication record during the time that they provide services to the child. This record must include the:

Medium-High (1) Child's full name;

Medium (2) Prescribing health-care professional's name, if applicable;

Medium (3) Reason medication was prescribed, for prescription medication;

Medium-High (4) Medication name, strength, and dosage;

Medium-High (5) Date (day, month, and year) and the time the medication was administered;

Medium (6) Name and signature of the person who administered the medication;

Medium (7) Child's refusal to accept medication, if applicable; and

(continued)

Medium-High

(8) Reasons for administering the medication, including the specific symptoms, condition, and/or injuries of the child that the caregiver is treating, only for:

(A) PRN psychotropic medication; and

(B) Nonprescription medications (excluding vitamins) for children under five years old.

Medium-High

(c) Identification of any prohibited prescription medication, nonprescription medication, and vitamins for each child must be maintained in the medication record, which must be incorporated into the child's record.

Medium-Low

(d) The medication records of prescription and nonprescription medication dispensed to the child must be incorporated into the child's record.

Helpful Information

Documenting the time a medication is given:

For medications with regularly scheduled doses, you may use the regularly scheduled time to document giving the medication as long as it is given within thirty minutes of the scheduled time. Otherwise, you must document the actual time the medication is given.

Example: For a regularly scheduled 9:00 a.m. medication given at 9:20, you may document 9:00 a.m.; if the medication is given at 9:45, then you must document 9:45 a.m.

If you document the time by initialing the regularly scheduled time (pre-printed on the form), there must be space on the form to document the time given when it is outside the 30-minute window.

For medications that are PRN or one-time only, you must document the exact time the medication is given.

Documenting the name and signature of the person who administered a medication:

The purpose of the signature is to be able to identify the person who administered a specific medication to a child, if a concern arises later about that medication. Licensing requires one full signature for each person who administers medication, but there is no need for the person to record a full signature for each dose of medication that he/she administers. Most medication records provide space for a signature and matching initials (usually at the bottom of the page or on the back), then only require a person to use his/her initials to record each time he/she actually gives a dose of medication. Using this system, the initials can be matched to the signature as needed. This complies with minimum standards.

§749.1543. Where must a child's medication records be maintained?

September 2010

Medium-Low (a) The foster parents must maintain at the foster home the child's medication records for the current month.

Medium-Low (b) Foster parents must submit copies of the child's medication records to you each month. You must file these medication records in the child's record.

Medium-Low (c) You must maintain copies of all the child's medication records for the length of time that you provide services to the child.

§749.1545. What other requirements must I meet regarding medication records?

January 2007

Low You must make suitable forms available to caregivers for maintaining adequate records of all medications administered to a child.

Division 6, Medication and Label Errors

§749.1561. What is a medication error?

January 2007

(no weight) A medication error includes, but is not limited to, the following:

(1) A child receives the wrong medication;

(2) A child receives medication prescribed to someone else;

(3) A child receives the wrong dosage of medication;

(4) A child receives medication at the wrong time;

(5) A medication dose is skipped or missed;

(6) A child receives expired medication;

(7) Not following the medication administration instructions, such as giving a child medication on an empty stomach when the medication should be given with food; and

(8) A child receives medication that was not stored as required to maintain the effectiveness of the medication, such as refrigerating or not refrigerating the medication or exposing the medication to heat or sunlight.

§749.1563. What must a caregiver do if the caregiver finds a medication error?

January 2007

Medium-High (a) If a caregiver finds a medication error regarding a prescribed medication, the caregiver must contact a health-care professional immediately, unless the error is the type described in paragraph (4) or (5) of §749.1561 of this title (relating to What is a medication error?), and follow the health-care professional's recommendations.

Medium-High (b) If a caregiver finds a medication error regarding a nonprescription medication, the caregiver must take the appropriate and necessary actions as required by the circumstances.

Medium-High (c) For all medication errors, a caregiver must document the following within 24 hours:

Medium-High (1) The time and date of the error;

Medium-High (2) The medication error;

Medium-High (3) The time and date of the call(s) to the licensed health-care professional, if applicable;

Medium-High (4) The name and title of the health-care professional contacted, if applicable; and

Medium-High (5) The health-care professional's medical recommendations for ensuring the child's safety, if applicable.

§749.1565. What must a caregiver do if the caregiver finds a medication label error?

January 2007

If a caregiver finds a medication label error, the caregiver must:

Medium (1) Report the error to the pharmacist; and

Medium (2) Have the label on the medication container corrected as soon as possible but no later than the next business day.

Division 7, Side Effects and Adverse Reactions to Medication

§749.1581. What must caregivers do if a child has an adverse reaction to a medication?

January 2007

If a child has an adverse reaction to a medication, the caregiver must:

High (1) Immediately report the reaction to a health-care professional;

High (2) Follow the health-care professional's recommendations;

High (3) Seek further medical care for the child if the child's condition appears to worsen; and

Medium-High (4) Document in the child's medical record the:

Medium-High (A) Adverse reactions that the child had to the medication;

Medium-High (B) Time and date of call(s) to the health-care professional;

Medium-High (C) Name and title of the health-care professional contacted; and

Medium-High (D) Health-care professional's medical recommendations for ensuring the child's safety.

§749.1583. What must a caregiver do if a child experiences side effects from any medications?

January 2007

If a child experiences side effects from any medication, the caregiver must:

Medium-High (1) Document the observed and reported side effects;

Medium-High (2) Immediately report any serious side effects to the child's physician; and

Medium-High (3) Report any other side effect to the prescribing physician within 72 hours.

Division 8, Use of Psychotropic Medication

Omitted from this publication:

§749.1603. If my agency employs or contracts with a health-care professional who prescribes psychotropic medications to a child in care, what information must I provide the person legally authorized to give consent before requesting his consent for the child to be placed on psychotropic medication?

§749.1605. If my agency does not employ or contract with the health-care professional who prescribes psychotropic medications to a child in care, what information must I provide the person legally authorized to give medical consent prior to the health-care professional prescribing psychotropic medications to a child in care?

§749.1607. What are the requirements if a physician orders administration of a psychotropic medication to a child in an emergency?

§749.1609. What information must be documented about a child's use of psychotropic medication?

January 2007

Medium-High (a) You must ensure that caregivers maintain a daily record of the child's use of such medication according to the requirements in §749.1541 of this title (relating to What records must caregivers maintain for each child receiving medication?).

Medium (b) Caregivers must document in the child's record a description of any noticeable change in the child's behavior in response to the medication.

Medium (c) You must provide the information in subsection (b) of this section to the prescribing health-care professional or the child's current health-care professional to use in evaluating the appropriateness of continuing the medication. You must document the health-care professional's evaluation and review in the child's record.

§749.1611. If my agency employs or contracts with a health-care professional who prescribes psychotropic medications to a child in care, what are the requirements for evaluating whether a child should continue taking a psychotropic medication?

January 2007

Medium-High (a) If a child takes psychotropic medications, the prescribing health-care professional must evaluate and document in the child's medication record a description of the child's response to the medication and an assessment of its effectiveness and the appropriateness of continuing the medication on at least a quarterly basis. The written evaluation must include any reasons for discontinuing the medication.

(no weight) (b) If the health-care professional decides that he can evaluate the appropriateness of continuing the medication without seeing the child, you do not have to schedule an appointment for the evaluation.

Medium (c) The health-care professional must consider the target symptoms and treatment goals in evaluating the child's use of psychotropic medications.

Medium-High (d) The health-care professional must document whether the child needs to continue taking the medication. You must document the health-care professional's decision in the child's record.

Medium-High (e) If the health-care professional does not substantiate the effectiveness of a specific psychotropic medication within 90 days, the health-care professional must provide a written rationale for continuing the medication for an additional period. The continuation of the medication may not exceed an additional 90 days (for a total of 180 days) if the health-care professional does not substantiate effectiveness. A copy of the written rationale must be documented in the child's record.

Division 9, Protective Devices

§749.1641. What is a protective device?

September 2010

(no weight) (a) A protective device:

(1) Protects a person from involuntary self-injurious behavior or permits wounds to heal; and

(2) Does not prohibit a person's mobility.

(no weight) (b) Examples of a protective device are helmets, elbow guards, mittens, and wheelchair seat belts.

(no weight) (c) If used appropriately, devices intended to encourage mobility or minimally restrain a young child for safety purposes, such as wheelchairs, car seats, high chairs, strollers, bed rails, and child leashes manufactured and sold specifically to harness a young child for safety purposes, are not protective devices.

§749.1643. What does "involuntary self-injurious behavior" mean when used in this division?

January 2007

(no weight) Involuntary self-injurious behavior means a person's physical movements that are automatic and not subject to control of the person's will that may inflict injury to the person.

§749.1645. May I use protective devices?

January 2007

High (a) You may use protective devices if a licensed physician orders their use for a specific child. The orders must indicate the circumstances under which the protective device is permitted.

(b) You may not use protective devices as:

High (1) Punishment;

High (2) Retribution or retaliation;

High (3) A means to get a child to comply;

High (4) A convenience for caregivers or other persons; or

High (5) A substitute for effective treatment or habilitation.

Medium-High (c) You must document the use of protective devices in the child's record, service plan, and service plan reviews. The service planning team must discuss and document in the child's service plan reviews:

Medium-High (1) Clinical justification for continued use of protective devices; and

Medium-High (2) Ways to reduce the need for protective devices.

§749.1647. Who may use PRN orders with respect to protective devices?

January 2007

Medium-High A licensed physician ordering protective devices may use PRN orders. The physician must review PRN orders for protective devices at least every 90 days.

Division 10, Supportive Devices

§749.1671. What is a supportive device?

January 2007

(no weight) (a) A supportive device used:

(1) To support a person's posture;

(2) To assist a person who cannot obtain and/or maintain normal physical functioning to improve his mobility and independent functioning; or

(3) As an adjunct to proper care and treatment, for example physical therapy.

(no weight) (b) The purpose of a supportive device is not to restrict movement.

§749.1673. May I use supportive devices?

January 2007

High (a) You may use supportive devices if a licensed physician orders their use for a specific child. The orders must indicate the circumstances under which the supportive device is permitted.

High (b) You may not use a supportive device as a substitute for appropriate nursing care.

High (c) You may not use supportive devices that include tying or depriving or limiting the use of a child's hands or feet.

(d) You may not use supportive devices as:

High (1) Punishment;

High (2) Retribution or retaliation;

High (3) Means to get a child to comply;

High (4) A convenience for caregivers or other persons; or

High (5) A substitute for effective treatment or habilitation.

Medium-High (e) If a device is not specifically for assisting with sleep or safety during sleep, you must remove the device during rest periods.

Medium-High (f) You must document the use of supportive devices in the child's record, service plan, and service plan reviews. The service planning team must discuss and document in the child's service plan reviews:

Medium-High (1) Clinical justification for continued use of supportive devices; and

Medium-High (2) Ways to reduce the need for supportive devices.

§749.1675. Who may use PRN orders with respect to supportive devices?

January 2007

Medium-High

A licensed physician ordering supportive devices may use PRN orders. The physician must review PRN orders for supportive devices at least every 90 days.

Subchapter K, Foster Care Services: Daily Care, Problem Management

Division 1, Additional Requirements for Infant Care

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

January 2007

(no weight) These words have the following meanings in this division:

(1) Baby bungee jumper – A bucket seat that is suspended from a doorway by an elastic bungee cord that allows an infant to bounce while sitting in the seat.

(2) Baby walker – A baby walker allows an infant to sit inside the walker equipped with rollers or wheels and move across the floor.

(3) Bouncer seat – A stationary seat designed to provide gentle rocking or bouncing motion by an infant's movement or by battery-operated movement. This type of equipment is designed for an infant's use from birth until the child can sit up unassisted.

§749.1803. What are the basic care requirements for an infant?

September 2010

Medium-High (a) Each infant must receive individual attention, including playing, talking, cuddling, and holding.

Medium-High (b) A caregiver must provide prompt attention to an infant's physical needs, such as feeding and diapering.

Medium-High (c) An infant's caregiver must ensure that the environment is safe. For example, free the area of objects that may choke or harm the infant, take measures to prevent electric shock, free the area of furniture that is in disrepair or unstable, and allow no unsupervised access to water to prevent the risk of drowning.

High (d) An infant's caregiver must never leave the infant unsupervised:

(1) A sleeping infant is considered supervised if the caregiver is within eyesight or hearing range of the infant and can intervene as needed, or if the caregiver uses a video camera or audio monitoring device to monitor the infant and is close enough to the infant to intervene as needed; and

(continued)

(2) An awake infant is considered supervised if the caregiver is within eyesight of the infant and is close enough to the infant to intervene as needed. For short periods of time in the course of routine household activities, the infant may be out of the caregiver's eyesight, as long as the:

(A) Infant is within hearing range;

(B) Infant's environment is free of any safety hazards; and

(C) Caregiver is able to intervene immediately, as needed.

Best Practice Suggestion

Best practice for infant care suggests:

- *Care by the same caregiver on a regular basis, when possible;*
- *Holding and comforting a child who is upset; and*
- *Talking to children as they are fed, changed, and held, such as naming objects, singing, or saying rhymes.*

When changing diapers, best practice suggests:

- *Promptly change soiled or wet diapers or clothing;*
- *Thoroughly cleanse children with individual cloths or disposable towels;*
- *Ensure that the child is dry before placing a new diaper on the child;*
- *Keep all diaper-changing supplies out of children's reach;*
- *Wash the infant's hands after each diaper change; and*
- *Cover containers used for soiled diapers or keep them in a sanitary manner, such as placing soiled diapers in individual sealed bags.*

§749.1805. What furnishings and equipment must I have in an infant care area?

January 2007

An infant care area must at a minimum include the following furnishings and equipment:

Medium (1) An individual crib for each infant; and

Medium-Low (2) A sufficient number of toys to keep each child engaged in activities.

§749.1807. What specific safety requirements must my cribs meet?

January 2007

(a) All cribs must have:

Medium-High (1) A firm, flat mattress that snugly fits the sides of the crib. The mattress must not be supplemented with additional foam material or pads;

Medium-High (2) Sheets that fit snugly and do not present an entanglement hazard;

Medium (3) A mattress that is waterproof or washable;

Medium-High (4) Secure mattress support hangers, and no loose hardware or improperly installed or damaged parts;

(continued)

Medium-High (5) A maximum of 2 3/8 inches between crib slats or poles;

Medium-High (6) No corner posts over 1/16 inch above the end panels;

High (7) No cutout areas in the headboard or footboard that would entrap a child's head or body; and

Medium-High (8) Drop rails, if present, which fasten securely and cannot be opened by a child.

Medium-High (b) Caregivers must sanitize each crib when soiled and before reassigning the crib to a different child.

High (c) Caregivers must never leave children in the crib with the side down.

Medium-High (d) The foster home must not have stackable cribs.

§749.1809. Are mesh cribs or port-a-cribs allowed?

January 2007

A foster home may use a full-size, portable, or mesh-side crib if:

Medium (1) Caregivers follow the manufacturer's instructions;

(2) The crib has:

Medium-High (A) Mesh that is securely attached to the top rail, side rail, and floor plate; and

Medium-High (B) Folded sides that securely latch in place when raised;

Medium-High (3) Caregivers never leave a child in a mesh-sided crib with a side folded down; and

Medium-High (4) If you become aware of a recall for the port-a-crib used, you must discontinue its use.

Best Practice Suggestion

It is a good idea for the crib to have:

- *A minimum height of 22 inches from the top of the railing to the mattress support at its lowest level; and*
- *Mesh openings that are 1/4 inch or less.*

§749.1811. What equipment must have safety straps before I can use it with an infant?

January 2007

Medium-High (a) A high chair, swing, stroller, infant carrier, rocker, bouncer seat, or a similar type of equipment that a foster home uses for an infant must be equipped with safety straps; and

Medium-High (b) The safety straps must be fastened whenever the infant is using the equipment.

§749.1813. What types of equipment may a foster home not use with infants?

June 2014

(a) A foster home may not use any of the following types of equipment with infants:

Medium-High (1) Baby walkers;

Medium-High (2) Baby bungee jumpers;

Medium-High (3) Accordion safety gates; and

High (4) Toys that are small enough to swallow or choke a child.

High (b) Children may not sleep on bean bags, waterbeds, or foam pads.

High (c) Soft bedding, such as blankets, sleep positioning devices, stuffed toys, quilts, pillows, bumper pads, and comforters may not be used in a crib for an infant younger than 12 months of age.

Medium-High (d) An infant receiving treatment services for primary medical needs may have special items that assist him with safe sleep at the written recommendation of a health-care professional.

Helpful Information

- *Baby walkers present a hazard due to risk of falls down stairs, steps, and tipping over thresholds or carpet edges. They provide infants accessibility to potentially hot surfaces, containers of hot liquids such as coffee, dangling appliance cords, poisonous plants or hazardous substances and buckets, toilets or other containers of water.*
- *Baby bungee jumpers present a hazard due to increased risk of injury to the child as a result of spinning, swinging, or bumping into walls while placed in the jumper.*
- *Accordion gates with large V-shaped openings along the top edge and diamond shaped openings between the slats present entrapment and entanglement hazards resulting in strangulation, choking or pinching to children who try to crawl through or over the gate.*
- *Examples of items that present a choking hazard for infants and toddlers include coins, balloons, safety pins, marbles, Styrofoam © and similar products, and sponge, rubber or soft plastic toys.*
- *Studies on SIDS support eliminating soft bedding materials and stuffed toys used for children under six months old.*
- *Examples of items that can be used as alternatives to blankets and sheets are a one-piece footed sleeper, a body shirt or undershirt underneath a sleeper, sleep sack or wearable blanket that zips up the front and can be worn over a sleeper. Wearable blankets are sleeveless, so a baby can still move his arms around while the rest of his body stays covered.*

The prohibited equipment is not safe or beneficial to an infant's development and is not recommended by either the American Academy of Pediatrics or the Consumer Product Safety Commission.

§749.1815. What are the specific sleeping requirements for infants?

September 2010

High (a) Caregivers must place an infant not yet able to turn over on his own in a face-up sleeping position unless a health-care professional orders otherwise.

High (b) An infant must not have his head, face, or crib covered at any time by an item such as a blanket, linen, or clothing.

High (c) An infant may not sleep in a prone position with a sleeping adult at any time, including in the adult's bed, on a couch, etc.

§749.1819. What are the specific requirements for feeding an infant?

September 2010

Medium (a) Caregivers must feed an infant based on the recommendations of the infant's licensed physician.

Medium (b) Unless recommendations from the service team are contrary, caregivers must hold the infant while feeding him if the infant is:

Medium-High (1) Birth through six months old; or

Medium (2) Unable to sit unassisted in a high chair or other seating equipment during feeding.

Medium (c) Caregivers must never prop a bottle by supporting it with anything other than the child or adult's hand.

(d) A caregiver who cares for more than one infant must:

Medium (1) Sterilize shared bottles or training cups between uses by different infants; and

Medium (2) Clean high chair trays before each use.

Best Practice Suggestion

Best practice suggests:

- *Feeding infants while infants are awake;*
- *Providing regular snack and meal times for infants who eat table food; and*
- *Ensuring children no longer being held for feeding are fed in a safe manner.*

Division 2, Additional Requirements for Toddler Care

§749.1841. What are the basic care requirements for a toddler?

September 2010

Medium-High (a) Each toddler must receive individual attention, including playing, talking, and cuddling.

High (b) A toddler's caregiver must ensure that the environment is safe. For example, free the area of objects that may choke or harm the toddler, take measures to prevent electric shock, free the area of furniture that is in disrepair or unstable, and allow no unsupervised access to water to prevent the risk of drowning.

(continued)

High (c) A toddler's caregiver must never leave the toddler unsupervised. A toddler is considered supervised if the caregiver is within eyesight or hearing range of the child and can intervene as needed, or if the caregiver uses a video camera or an audio monitoring device to monitor the child and is close enough to the child to intervene as needed.

Best Practice Suggestion

Best practice for toddler care suggests:

- *Care given by the same caregiver on a regular basis, when possible;*
- *Individual attention given to each child including playing, talking, and cuddling; and*
- *Holding and comforting a child who is upset.*

Best practice suggests that furnishings and equipment for toddlers include the following:

- *Age-appropriate seating, tables, and nap or sleep equipment;*
- *Enough popular items available so that toddlers are not forced to compete for them; and*
- *Containers or low shelving so items that children can safely use without direct supervision are accessible to the children.*

Best practices for nap or rest time include the following:

- *Schedule a supervised sleep or rest period after the noon meal for children 12 months of age or older or according to the child's individual physical needs;*
- *Limit the sleep or rest period to no more than three hours;*
- *Do not force children to sleep and do not put anything in or on a child's head or body to force the child to rest or sleep; and*
- *Take a toddler who sleeps or rests in a crib out of the crib for other activities when the child awakens.*

Division 3, Additional Requirements for Pregnant Children

§749.1861. What information must I provide a pregnant child regarding her pregnancy?

September 2010

You must:

Medium (1) Ensure information, training, and counseling is available regarding health aspects of pregnancy, preparation for child birth, and recovery from child birth;

Medium (2) Ensure the pregnant child receives nutritional counseling and guidance that meets generally accepted standards, including nutrition during pregnancy, lactation, and foods to avoid; and

Medium (3) Inform the child, within seven days of admission or upon learning of the pregnancy, of her right to be free from pressure to get an abortion, relinquish her child for adoption, or to parent her child.

§749.1863. Is the use of emergency behavior intervention of a pregnant child permitted in a foster home?

January 2007

If your policies allow for the use of personal restraints on a pregnant child:

Medium-High (1) The health-care professional attending to the child's pregnancy must document whether any type of emergency behavior intervention that your policies allow is inadvisable; and

High (2) You may not use any emergency behavior intervention that the child's health-care professional attending to her pregnancy finds inadvisable.

§749.1865. If my policies permit the admission of adolescent parents with their child(ren), who is responsible for the care of an adolescent's child?

January 2007

If your policies permit the admission of adolescent parents with their child(ren):

Medium (1) An adolescent parent must provide most of the care for her child;

Medium-High (2) Caregivers must be available to the adolescent parent as a resource and support; and

Medium-High (3) When you care for an adolescent's child in the adolescent parent's absence, you are responsible for that child as if the child is in your care.

Division 4, Educational Services

§749.1891. What responsibilities do I have for the education of a child in care?

September 2010

(a) You must arrange an appropriate education for each child, including:

Medium-Low (1) Ensuring the child in care attends an educational facility or program that is approved or accredited by the Texas Education Agency, the Southern Association of Colleges and Schools, the Texas Private School Accreditation Commission unless approved by the child's service planning team with documented justification;

Low (2) Ensuring a school-age child has the training and education in the least restrictive setting necessary to meet the child's needs and abilities;

Medium-Low (3) For a child attending an accredited educational facility or program, ensuring the facility or program implements a special education student's individual education plan (IEP); and

Medium-Low (4) Advocating that a school-age child receives the educational and related services to which he is entitled under provisions of federal and state law and regulations.

Medium-Low (b) For children receiving treatment services you must designate a liaison between the agency and the child's school.

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

January 2007

Caregivers must:

Medium-Low (1) Review report cards and other information received from teachers or school authorities with the child and provide necessary information to agency staff;

Medium-Low (2) Counsel and assist the child regarding adequate classroom performance;

Low (3) Permit, encourage, and make reasonable efforts to involve the child in extracurricular activities to the extent of the child's interests and abilities and in accordance with the child's service plan;

Medium-Low (4) Provide a quiet, well-lighted space for the child to study and allow regular times for homework and study;

Medium (5) Know what emergency behavior interventions are permitted and being used with the child;

Medium-Low (6) Request ARD, IEP, and ITP meetings if concerned with the child's educational program or if the child does not appear to be making progress; and

Medium-Low (7) Attend ARD, IEP, ITP meetings, other school staffings, and conferences to represent the child's educational best interests, including the child being evaluated for and provided with services needed for the child to benefit from educational services, and positive behavior supports designed to decrease the need for negative disciplinary techniques or interventions.

§749.1895. What are the specific requirements for the educational program of a child diagnosed with a pervasive development disorder?

January 2007

You must ensure that the educational program for a child with a pervasive development disorder:

Medium-Low (1) Encourages normalization through appropriate stimulation and by encouraging self-help skills; and

Medium-Low (2) Is appropriate to his intellectual and social functioning.

Division 5, Recreational Services

§749.1921. What responsibilities do foster parents have for providing a child with opportunities for recreational activities?

January 2007

Medium-Low (a) Caregivers must provide daily indoor and outdoor recreational and other activities appropriate to the needs, interests, and abilities of the children so every child may participate.

(b) Except for written medical orders to the contrary, your programs for non-ambulatory children must include:

Medium (1) Physical fitness development that prescribes a variety of body positions; and

Medium-Low (2) Changes in environment.

Low (c) Each child must have individual free time as appropriate to the child's age and abilities.

(d) Caregivers must provide the following types of recreational activities based on each individual child's needs:

Type of Service	The caregivers must:	Weight
(1) Child-care services	(A) Ensure that opportunities to participate in community activities, such as school sports or other extracurricular school activities, religious activities, or local social events, are available to the child; and	Low
	(B) Organize family activities, religious activities, or local social events that are available to the child.	Low
(2) Treatment services	(A) Meet the requirements in paragraph (1)(A) of this chart;	Low
	(B) Ensure that each child receiving treatment services has an individualized recreation plan designed by the service planning team or professionals who are qualified to address the child's individual needs, that the plan is implemented, and that the plan is revised by the service planning team or qualified professionals, as needed; and	Medium-Low
	(C) Ensure that medical and physical support are given if the recreational and leisure-time activities require it for a child who is receiving treatment services for primary medical needs, pervasive developmental disorder, or mental retardation.	Medium

Helpful Information

Chapter 768 of the Texas Health and Safety Code outlines specific requirements for children who participate in rodeos, including wearing protective gear. Operations need to be aware of the requirements of this law if children in their care participate in rodeos.

§749.1923. What physical fitness activities must caregivers provide for a child receiving treatment services for primary medical needs or mental retardation?

January 2007

Medium (a) A child receiving treatment services for primary medical needs or mental retardation must have a minimum of one hour of physical stimulation each day.

Medium (b) Training programs for non-mobile children must include development of physical fitness. This must include a variety of body positions and changes in environment.

§749.1925. What type of daily schedule must caregivers provide for a child receiving treatment services for primary medical needs or mental retardation?

January 2007

Medium-Low A child receiving treatment services for primary medical needs or mental retardation must have a schedule that is based on the normalization principle. In order to help the child obtain an existence as normal as possible, the daily schedule must:

Medium-Low (1) Demonstrate an understanding of normal child development; and

Medium (2) Enhance the child's physical, emotional, and social development.

§749.1927. To what extent must a child receiving treatment services for primary medical needs or intellectual disabilities have normal life experiences?

December 2014

Medium A child receiving treatment services for primary medical needs or intellectual disabilities should experience normalcy as much as possible and as appropriate for the child's special needs. This means that the child's foster parents must be routinely and personally involved with the child. This involvement must include:

Medium (1) Daily one-on-one interaction between the child and the foster parent primarily responsible for the child's care;

Medium (2) Participation in everyday family activities to the extent the child is able, such as having meals together, participating in family time, and participating in family outings;

Medium (3) Sensory stimulation for the child, such as the child being held, being read to, being played with, and being talked to, and the foster family watching television and listening to music together;

Medium (4) Actively participating in the child's medical care, including appointments and hospitalizations; and

Medium (5) Actively participating in the child's educational needs.

Division 6, Discipline and Punishment

§749.1951. What are the requirements for disciplinary measures?

January 2007

Medium (a) Only a caregiver known to and knowledgeable of a child may discipline the child.

(b) Each disciplinary measure must:

Medium (1) Be consistent with your policies and procedures;

High (2) Not be physically or emotionally damaging to the child;

Medium (3) Be individualized to meet each child's needs;

Medium-High (4) Be appropriate to the child's level of understanding, age, and developmental level; and

Medium (5) Be appropriate to the incident and severity of the behavior demonstrated.

Medium (c) The goal of each disciplinary measure must be to teach the child acceptable behavior and self-control. The caregiver must explain the reason for the disciplinary measure when the caregiver imposes the measure.

Best Practice Suggestion

It is a good idea for disciplinary measures to be consistent among caregivers. Using positive methods of discipline and guidance encourage self-esteem, self-control, and self-direction. Positive methods of discipline include the following:

- *Using praise, positive reinforcement, and encouragement of good behavior instead of focusing only on unacceptable behavior;*
- *Reminding a child of behavior expectations daily by using clear, positive statements;*
- *Talking with the child about the situation;*
- *Focusing on the rule to learn and the reason for the rule;*
- *Focusing on solutions that are respectful, reasonable, and related to the problem behavior, rather than blaming or focusing on consequences;*
- *Redirecting the child's attention or behavior using positive statements;*
- *Providing prior notice of possible consequences for inappropriate behaviors;*
- *Giving the child acceptable choices or alternatives;*
- *Using brief supervised separation or time away from the group or situation, when appropriate for the child's understanding, age, and development. Best practice suggests that quiet time or time out from the group be limited to no more than one minute per year of the child's chronological or developmental age. However, this time frame may need to be adjusted for some children, such as a child who has attention-deficit disorder. Time out is not appropriate for infants and is not recommended for toddlers, since they are too young to understand this intervention;*

(continued)

Best Practice Suggestion continued

- *Arranging the environment to allow safe testing of limits;*
- *Giving logical consequences that are appropriate to the situation and severity of the behavior; and*
- *Withholding privileges.*

§749.1953. May I use corporal punishment for children in care?

January 2007

High (a) You may not use or threaten to use corporal punishment with any child in care.

(no weight) (b) Corporal punishment is the infliction of physical pain on any part of a child's body as means of controlling or managing the child's behavior. It includes:

(1) Hitting or spanking a child with a hand or instrument; or

(2) Forcing or requiring the child to do any of the following as a method of managing or controlling behavior:

(A) Perform any form of physical exercise, such as running laps or doing sit ups or push ups;

(B) Hold a physical position, such as kneeling or squatting; or

(C) Do any form of "unproductive work."

§749.1955. What is "unproductive work"?

January 2007

(no weight) (a) "Unproductive work" is work that serves no purpose except to demean the child. Examples include moving rocks or logs from one pile to another or digging a hole and then filling it in. Unproductive work is never an appropriate behavior management tool.

(no weight) (b) "Unproductive work" does not include work that corrects damage that the child's behavior caused. For example, you may require a child who defaces a fence or wall to repaint it. This example includes a logical consequence and an acceptable behavior management tool.

§749.1957. What other methods of punishment are prohibited?

January 2007

In addition to corporal punishment, prohibited discipline techniques include, but are not limited to:

High (1) Any harsh, cruel, unusual, unnecessary, demeaning, or humiliating discipline or punishment;

Medium (2) Denial of mail or visits with their families as discipline or punishment;

Medium (3) Threatening with the loss of placement as discipline or punishment;

Medium-High (4) Using sarcastic or cruel humor and verbal abuse;

(continued)

Medium-High (5) Maintaining an uncomfortable physical position, such as kneeling, or holding his arms out;

High (6) Pinching, pulling hair, biting, or shaking a child;

High (7) Putting anything in or on a child's mouth, such as soap or tape;

Medium-High (8) Humiliating, shaming, ridiculing, rejecting, or yelling at a child;

Medium-High (9) Subjecting a child to abusive or profane language;

High (10) Placing a child in a dark room, bathroom, or closet;

Medium-High (11) Requiring a child to remain silent or inactive for inappropriately long periods of time for the child's age;

Medium-High (12) Confining a child to a highchair, box, or other similar furniture or equipment as discipline or punishment;

High (13) Denying basic child rights as a form of discipline or punishment;

High (14) Withholding food that meets the child's nutritional requirements; and

High (15) Using or threatening to use emergency behavior intervention as discipline or punishment.

§749.1959. To what extent may a caregiver restrict a child's activities as a behavior management tool?

January 2007

(no weight) (a) Within limits, a foster parent may restrict a child's activities as a behavior management tool.

Medium-Low (b) Restrictions of activities, other than school or chores, which will be imposed on a child for more than 30 days, must be reviewed with and approved by the child placement management staff or treatment director prior to or within 24 hours of imposing the restriction.

Medium-Low (c) Restrictions to a particular room or building that will be imposed on a child for more than 24 hours must have approval from the service planning team, a professional service provider, or treatment director prior to or within 24 hours of imposing the restriction.

Medium-Low (d) You must inform the child and parent about any such restrictions you place on the child.

Medium-Low (e) Documentation of all approvals, justification for the restriction, and informing the child and parents must be in the child's record.

§749.1961. May a person in care discipline or punish another person in care?

January 2007

Medium-High No. A person in care must not discipline or punish another person in care except when babysitting under §749.2599 of this title (relating to Can a child serve as a caregiver?).

Subchapter L, Foster Care Services: Emergency Behavior Intervention

Division 1, Definitions

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

December 2014

(no weight) These words have the following meaning in this subchapter:

(1) Chemical restraint – A type of emergency behavior intervention that uses chemicals or pharmaceuticals through topical application, oral administration, injection, or other means to immobilize or sedate a child as a mechanism of control. The use of medications that have a secondary effect of immobilizing or sedating a child, but are prescribed by a treating health-care professional and administered solely for medical or dental reasons, is not chemical restraint and is not regulated as such under this chapter.

(2) De-escalation – See §749.43(15) of this title (relating to What do certain words and terms mean in this chapter?).

(3) Emergency behavior intervention – See §749.43(19) of this title.

(4) Emergency medication – A type of emergency behavior intervention that uses chemicals or pharmaceuticals through topical application, oral administration, injection, or other means to modify a child's behavior. The use of medications that have a secondary effect of modifying a child's behavior, but are prescribed by a treating health-care professional and administered solely for medical or dental reasons (e.g. benadryl for an allergic reaction or medication to control seizures), is not emergency medication and is not regulated as such under this chapter.

(5) Emergency situation – A situation in which attempted preventative de-escalatory or redirection techniques have not effectively reduced the potential for injury and it is immediately necessary to intervene to prevent:

(A) Imminent probable death or substantial bodily harm to the child because the child attempts or continually threatens to commit suicide or substantial bodily harm; or

(B) Imminent physical harm to another because of the child's overt acts, including attempting to harm others. These situations may include aggressive acts by the child, including serious incidents of shoving or grabbing others over their objections. These situations do not include verbal threats or verbal attacks.

(6) Mechanical restraint – A type of emergency behavior intervention that uses the application of a device to restrict the free movement of all or part of a child's body in order to control physical activity.

(continued)

(7) Personal restraint – A type of emergency behavior intervention that uses the application of physical force without the use of any device to restrict the free movement of all or part of a child's body in order to control physical activity. Personal restraint includes escorting, which is when a caregiver uses physical force to move or direct a child who physically resists moving with the caregiver to another location.

(8) PRN – See §749.43(49) of this title (relating to What do certain words and terms mean in this chapter?).

(9) Prone restraint – Placing a child in a chest down restraint hold.

(10) Seclusion – A type of emergency behavior intervention that involves the involuntary separation of a child from other residents and the placement of the child alone in an area from which the resident is prevented from leaving by a physical barrier, force, or threat of force.

(11) Short personal restraint – A personal restraint that does not last longer than one minute before the child is released.

(12) Supine restraint – Placing a child in a chest up restraint hold.

(13) Transitional hold – The use of a temporary restraint technique that lasts no longer than one minute as part of the continuation of a longer personal or mechanical restraint.

(14) Triggered review – A review of a specific child's placement, treatment plan, and orders or recommendations for intervention, because a certain number of interventions have been made within a specified period of time.

Helpful Information

The distinguishing variable between a PRN (as needed) psychotropic medication and an emergency medication is the circumstances under which the medication is given. A medication given to help a child manage his/her behavior or to de-escalate a child who is having trouble managing his/her behavior is regulated only as a PRN psychotropic medication. However, if the medication is given in response to an emergency situation, it is an emergency medication.

For example, a child becomes increasingly agitated after a family visit, to the point of screaming and becoming verbally abusive to caregivers and other children. The child is not able to use self-calming techniques. If the child is offered a PRN psychotropic medication under these circumstances, it is not regulated as emergency medication, because there is no emergency situation. The medication serves to help the child manage the behavior before it escalates into an emergency.

However, if the child had escalated to the point of physically assaulting someone and requiring physical restraint, then a medication offered during the restraint to help the child calm would be regulated as an emergency medication.

Division 2, Types of Emergency Behavior Intervention That May Be Administered

§749.2051. What types of emergency behavior intervention may I administer?

January 2007

(a) If permitted in your policies and you meet the requirements of this subchapter, a caregiver may administer the following types of emergency behavior intervention to a child in your care:

Medium-High (1) Short personal restraint;

Medium-High (2) Personal restraint; and

Medium-High (3) Emergency medication.

High (b) You may never administer chemical restraints, mechanical restraints, or seclusion.

(no weight) (c) Protective and supportive devices, used appropriately, are not considered emergency behavior interventions. For information on protective and supportive devices, see Divisions 9 and 10 of Subchapter J of this chapter (relating to Foster Care Services: Medical and Dental).

§749.2053. Who may administer emergency behavior intervention?

January 2007

Medium-High Only a caregiver qualified in emergency behavior intervention may administer any form of emergency behavior intervention, except for the short personal restraint of a child.

§749.2055. What actions must a caregiver take before using a permitted type of emergency behavior intervention?

September 2010

(a) Before using a permitted type of emergency behavior intervention, the caregiver must:

Medium-High (1) Attempt less restrictive behavior interventions that prove to be ineffective at defusing the situation; and

Medium-High (2) Determine that the basis for the emergency behavior intervention is:

(A) An emergency situation; or

(B) A need for a personal restraint to administer intra-muscular medication or other medical treatments prescribed by a licensed physician, such as administering insulin to a child with diabetes.

(continued)

(no weight) (b) A child's active attempt to run away may be considered an emergency situation when the following is a factor:

(1) The child is developmentally or chronologically under six years old;

(2) The child is suicidal;

(3) The operation is located near a high traffic area;

(4) Adverse weather conditions pose a clear safety risk to the child; or

(5) Other clear safety risks are present.

§749.2059. What is the appropriate use for a short personal restraint?

September 2010

(no weight) Generally, a short personal restraint is used in urgent situations, such as:

(1) To protect the child from external danger that causes imminent significant risk to the child, such as preventing the child from running into the street or coming into contact with a hot stove. The restraint must end immediately after the danger is averted.

(2) To intervene when a child under the age of five (chronological or developmental age) demonstrates disruptive behavior, if other efforts to de-escalate the child's behavior have failed;

(3) When a child over five years old demonstrates behavior disruptive to the environment or milieu, such as disrobing in public, provoking others that creates a safety risk, or to intervene to prevent a child from physically fighting; or

(4) When a child is significantly damaging property, such as breaking car windows or putting holes into walls.

§749.2061. What precautions must a caregiver take when implementing a short personal restraint?

January 2007

(a) When a caregiver implements a short personal restraint, the caregiver must:

Medium-High (1) Minimize the risk of physical discomfort, harm, or pain to the child; and

Medium-High (2) Use the minimal amount of reasonable and necessary physical force.

(b) A caregiver may not use any of the following techniques as a short personal restraint:

High (1) A prone or supine restraint;

High (2) Restraints that impair the child's breathing by putting pressure on the child's torso, including leaning a child forward during a seated restraint;

High (3) Restraints that obstruct the airways of the child or impair the breathing of the child, including procedures that place anything in, on, or over the child's mouth, nose, or neck, or impede the child's lungs from expanding;

(continued)

High (4) Restraints that obstruct the caregiver's view of the child's face;

High (5) Restraints that interfere with the child's ability to communicate or vocalize distress; or

High (6) Restraints that twist or place the child's limb(s) behind the child's back.

§749.2063. Are there any purposes for which emergency behavior intervention cannot be used?

January 2007

Emergency behavior intervention may never be used as:

Medium-High (1) Punishment;

Medium-High (2) Retribution or retaliation;

Medium-High (3) A means to get a child to comply;

Medium-High (4) A convenience for caregivers or other persons; or

Medium-High (5) A substitute for effective treatment or habilitation.

Division 3, Orders

§749.2101. Are written orders required to administer emergency behavior intervention, and if so, who can write them?

January 2007

According to the following chart, written orders by certain professionals are required to administer certain emergency behavior intervention:

	Type of Emergency Behavior Intervention	(A) Are written orders required to administer the intervention for a specific child?	(B) Who can write orders for the use of the intervention for a specific child?
(no weight)	(1) Short personal restraint	(A) NO.	(B) Not applicable.
(no weight)	(2) Personal restraint	(A) NO. However, successive restraints, a restraint simultaneous with emergency medication, and/or a restraint that exceeds the maximum time limit all require orders as specified in this subchapter. PRN orders are also permitted under §749.2107 of this title (relating to Under what conditions are PRN orders permitted for a specific child?).	(B) Not Applicable.
(A) Medium-High (B) Medium-High	(3) Emergency medication	(A) YES.	(B) A licensed physician.

§749.2103. Must the written order be in a child's record before a caregiver can use an emergency behavior intervention on a child?

January 2007

Medium-High Yes, any type of written order that is required must be in the child's record before a caregiver can use emergency behavior intervention on that child.

Omitted from this publication:

§749.2105. What information must a written order include?

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

Division 4, Responsibilities During Administration of Any Type of Emergency Behavior Intervention

§749.2151. What responsibilities does a caregiver have when implementing a type of emergency behavior intervention?

January 2007

Medium-High (a) The use of emergency behavior intervention must be an appropriate response to the behavior demonstrated, and de-escalation must have failed.

Medium-High (b) The caregiver must act to protect the child's safety and consider the:

Medium-High (1) Characteristics of the immediate physical environment;

Medium-High (2) Permitted types of emergency behavior intervention; and

Medium-High (3) Potential risk of harm in using emergency behavior intervention versus the risk of not using emergency behavior intervention.

(c) The caregiver must:

Medium-High (1) Initiate an emergency behavior intervention in a way that minimizes the risk of physical discomfort, harm, or pain to the child; and

High (2) Use the minimal amount of reasonable and necessary physical force to implement the intervention.

(d) The caregiver must make every effort to protect the child's:

Medium (1) Privacy, including shielding the child from onlookers; and

Medium (2) Personal dignity and well-being, including ensuring that the child's body is appropriately covered.

(e) As soon as possible after starting any type of emergency behavior intervention, the caregiver must:

Medium-High (1) Explain to the child the behaviors the child must exhibit to be released or have the intervention reduced, if applicable; and

Medium-High (2) Permit the child to suggest actions the caregivers can take to help the child de-escalate.

Medium-High (f) If the child does not appear to understand what he must do to be released from the emergency behavior intervention, the caregiver must attempt to re-explain it every 15 minutes until the child understands or is released from the intervention.

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

September 2010

A child must be released as follows:

Type of Emergency Behavior Intervention	Items that must be included:	Weight
(1) Short personal restraint	(A) Immediately when an emergency health situation occurs during the restraint. The caregiver must obtain treatment immediately; or	High
	(B) Within one minute, or sooner if the danger is over or the disruptive behavior is de-escalated.	Medium-High
(2) Personal restraint	(A) Immediately when an emergency health situation occurs during the restraint. The caregiver must obtain treatment immediately;	High
	(B) Within one minute of the implementation of a prone or supine hold;	High
	(C) As soon as the child's behavior is no longer a danger to himself or others;	Medium-High
	(D) As soon as the medication is administered; or	Medium-High
	(E) When the maximum time allowed for personal restraint is reached.	Medium-High
(3) Emergency medication	Not applicable.	(no weight)

Division 5, Additional Responsibilities During Administration of a Personal Restraint

§749.2201. Who must monitor a personal restraint?

January 2007

High

During any personal restraint, a caregiver qualified in emergency behavior intervention must monitor the child's breathing and other signs of physical distress and take appropriate action to ensure adequate respiration, circulation, and overall well-being.

§749.2203. What is the appropriate action for a caregiver to take to ensure the child's adequate respiration, circulation, and overall well-being?

January 2007

(no weight)

Appropriate action includes responding prudently to a potentially life-threatening situation, for example, releasing a child when a child is unresponsive or indicates he cannot breathe and immediately seeking medical assistance from a health-care professional. The caregiver must take into account that a child may thrash about more violently as he struggles to breathe.

(continued)

Helpful Information

Signs of distress:

- *Circulation – Are the child's extremities cold to the touch? Are the child's extremities turning blue or is the child turning blue around the mouth?*
- *Respiration – Is the child's breathing rapid and shallow? Is there an absence of breathing? Is the child saying he or she cannot breath?*
- *Neurological – Is the child disoriented? Is he or she having a seizure?*
- *Gastrointestinal – Is the child vomiting or losing control of his or her bowels?*
- *Muscular-Skeletal – Is there apparent bruising, swelling, and/or complaints of pain?*

§749.2205. What personal restraint techniques are prohibited?

January 2007

(a) The following personal restraint techniques are prohibited:

High (1) Restraints that impair the child's breathing by putting pressure on the child's torso, including restraints that obstruct the child's lungs from expanding such as leaning a child forward during a seated restraint;

High (2) Restraints that obstruct the child's airway, including procedures that place anything in, on, or over the child's mouth, nose, or neck;

High (3) Restraints that obstruct a caregiver's ability to view the child's face;

High (4) Restraints that interfere with the child's ability to communicate or vocalize distress; or

High (5) Restraints that twist or place the child's limb(s) behind the child's back.

High (b) Prone and supine restraints are also prohibited as a short personal restraint.

(c) Prone and supine restraints are also prohibited as a personal restraint except:

High (1) As a transitional hold that lasts no longer than one minute;

High (2) As a last resort when other less restrictive interventions have proven to be ineffective; and

(3) When an observer meeting the following qualifications ensures the child's breathing is not impaired:

High (A) Trained to identify risks associated with positional, compression, or restraint asphyxia; and

High (B) Trained to identify risks associated with prone and supine holds.

Division 6, Combinations of Emergency Behavior Intervention

§749.2231. May a caregiver successively use emergency behavior interventions on a child?

January 2007

(a) A caregiver may successively use emergency behavior interventions on a child only if:

Medium-High (1) Allowed by your policies;

Medium-High (2) Permitted by rules of this subchapter for both types of emergency behavior intervention; and

Medium-High (3) Written orders specifically allow the combination.

Medium (b) The written orders must include clinical justification for the successive use of emergency behavior interventions that goes beyond the justification for the use of a single intervention. The licensed physician ordering the emergency medication must provide clinical justification for the combination of emergency medication and personal restraint.

(c) A caregiver must allow the child:

Medium-High (1) Bathroom privileges at least once every two hours;

High (2) An opportunity to drink water at least once every two hours;

Medium-High (3) Regularly prescribed medications unless otherwise ordered by the licensed physician;

Medium-High (4) Regularly scheduled meals and snacks served in a safe and appropriate manner; and

Medium-High (5) An environment that is adequately ventilated during warm weather, adequately heated during cold weather, appropriately lighted, and free of safety hazards.

§749.2233. May a caregiver simultaneously use emergency medication in combination with personal restraint?

January 2007

(a) A caregiver may simultaneously use emergency medication in combination with personal restraint only if:

High (1) Allowed by your policies;

High (2) Permitted by the rules of this subchapter for both types of emergency behavior intervention; and

High (3) Written orders specifically allow the combination.

Medium-High (b) The written orders must include clinical justification for the combination of emergency medication with personal restraint that goes beyond the justification for the use of a single emergency behavior intervention. If they are different people, both the licensed physician ordering the emergency medication and the professional ordering the personal restraint must provide the clinical justification for the combination.

Division 7, Time Restrictions for Emergency Behavior Intervention

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

January 2007

The maximum length of time that certain emergency behavior interventions can be administered to a child is as follows:

Types of Emergency Behavior Intervention	**The maximum length of time is:**	**Weight**
(1) Short personal restraint	One minute.	Medium-High
(2) Personal restraint	(A) For a child under nine years old, 30 minutes.	Medium-High
	(B) For a child nine years old or older, one hour.	High
	(C) A prone or supine personal restraint hold may not exceed one minute.	High
(3) Emergency medication	Not applicable.	(no weight)

§749.2283. Can a caregiver exceed the maximum length of time that an emergency behavior intervention can be administered to a child?

January 2007

A caregiver may exceed the maximum length of time for certain emergency behavior interventions as follows:

Types of Emergency Behavior Intervention	**The maximum length of time is:**	**Weight**
(1) Short personal restraint	May not be exceeded.	Medium-High
(2) Personal restraint	May be exceeded if the caregiver obtains a written continuation order before the end of the time period from a licensed psychiatrist with written clinical justification:	Medium-High
	(A) Indicating that the emergency situation continues to exist; and	Medium-High
	(B) For the length of time he permits the child to be restrained.	Medium
(3) Emergency medication	Not applicable.	(no weight)

Division 8, General Caregiver Responsibilities, Including Documentation, After the Administration of Emergency Behavior Intervention

§749.2301. What follow-up actions must caregivers take after the child's behavior no longer constitutes an emergency situation?

September 2010

Medium (a) The caregivers must take appropriate actions to help the child return to routine activities. The follow-up actions of the caregivers must include:

Medium-High (1) Providing the child with an appropriate transition and offering the child an opportunity to return to regular activities;

Medium (2) Observing the child for at least 15 minutes; and

Medium (3) Providing the child with an opportunity to discuss the situation that led to the need for emergency behavior intervention and the caregiver's reaction to that situation. The discussion must be held in private as soon as possible and no later than 48 hours after the child's use of an emergency medication or release from any emergency behavior intervention.

Medium (b) Caregivers involved in the emergency behavior intervention must conduct a post-emergency behavior intervention discussion. The goal of the discussion is to allow the child and caregiver to discuss:

Medium (1) The child's behavior and the circumstances that constituted the need for an emergency behavior intervention;

Medium (2) The strategies attempted before the use of the emergency behavior intervention and the child's reaction to those strategies;

Medium (3) The emergency behavior intervention itself and the child's reaction to the emergency behavior intervention;

Medium (4) How caregivers can assist the child in regaining self-control in the future to avoid the administration of an emergency behavior intervention; and

Medium (5) What the child can do to regain self-control in the future to avoid the administration of an emergency behavior intervention.

(c) Caregivers involved in the emergency behavior intervention must:

Medium (1) Debrief with child placement staff concerning the incident as soon as possible after the situation has stabilized; and

Medium (2) Make reasonable efforts to debrief with children in care who witness the incident.

Medium-Low (d) The child placement staff must review the use of the emergency behavior intervention within 72 hours of the intervention.

(no weight) (e) The caregivers do not have to return the child to previous activities or place the child in current activities that the group is participating in if the caregivers deem the child's participation is not in the best interests of the child or the other children in the group. However, caregivers must engage the child in an alternative routine activity.

(no weight) (f) This rule does not apply to short personal restraint.

§749.2303. What must the caregiver document after discussing with the child the use of the emergency behavior intervention?

September 2010

The caregiver must document the following after discussing with the child the use of the emergency behavior intervention:

Medium-Low (1) The date and time the caregiver offered the discussion;

Medium-Low (2) The child's reaction to the opportunity for discussion;

Medium-Low (3) The date and time the discussion took place, if applicable; and

Medium (4) The content of the discussion, if applicable.

§749.2305. When must a caregiver document the use of an emergency behavior intervention, and what must the documentation include?

September 2010

Medium (a) As soon as possible, but no later than 24 hours after the initiation of the intervention, the caregiver must document in the child's record the following information:

Medium (1) The child's name;

Medium (2) A description and assessment of the circumstances and specific behaviors that caused the basis for the emergency behavior intervention;

Medium (3) The de-escalation attempted before and during the use of the emergency behavior intervention and the child's reaction to those strategies;

Medium (4) The specific emergency behavior intervention administered;

Medium (5) The date and time the intervention was administered;

Medium (6) The length of time the child was restrained;

Medium (7) The name of the caregiver(s) that participated in the incident that led to the intervention, and who administered the intervention;

Medium (8) The name of the person(s) who observed the child;

Medium (9) All attempts to explain to the child what behaviors were necessary for release from the intervention;

Medium (10) The child's condition following the use of the medication or release from the intervention, including any injury the child sustained as a result of the intervention or any adverse effects caused by the use of the intervention; and

Medium-High (11) The actions the caregiver(s) took to facilitate the child's return to normal activities following the end of the intervention.

Medium (b) The child placement staff must document their review of the use of the emergency behavior intervention within 72 hours of the incident.

Medium (c) If personal restraint is used, documentation must also include the specific restraint techniques used, including a prone or supine restraint used as a transitional hold.

(continued)

Medium-High (d) If emergency medication is used, documentation must also include the specific medication used and the dosage administered to the child.

(no weight) (e) This rule does not apply to short personal restraints.

Division 9, Triggered Reviews

§749.2331. What circumstances trigger a review of the use of emergency behavior intervention for a specific child?

January 2007

The following circumstances trigger a review for certain emergency behavior interventions:

Types of Emergency Behavior Intervention	**Circumstances that trigger a review:**	**Weight**
(1) Short personal restraint	Not applicable, because short personal restraints are not monitored.	(no weight)
(2) Personal restraint	(A) The same child is personally restrained four times within a seven-day period, unless there is a written order by a licensed psychiatrist or psychologist or service planning team recommendation that allows the use of four or more restraints on that child within the seven-day time period. A service planning team recommendation must include the same written information as an order. See §749.2105 of this title (relating to What information must a written order include?).	Medium-High
	(B) The same child is personally restrained more often than the written order or service planning team recommendation allows.	Medium-High
(3) Emergency medication	Emergency medication is used on the same child three times in a 30-day period.	Medium-High

§749.2333. When must a triggered review occur?

January 2007

Medium-High (a) A triggered review must occur as soon as possible, but no later than 30 days after the review is triggered.

Medium-High (b) The regularly scheduled review of the child's service plan can serve as the triggered review if it meets the requirements in §749.2337 of this title (relating to What must the triggered review include and what must be documented in the child's record?) and takes place no later than 30 days after the review is triggered.

Omitted from this publication:

§749.2335. Who must participate in the triggered review?

§749.2337. What must the triggered review include and what must be documented in the child's record?

§749.2339. What if there are four triggered reviews within a 90-day period?

Division 10, Overall Agency Evaluation

Subchapter M, Foster Homes: Screenings and Verifications

Division 1, General Requirements

§749.2401. If one spouse will not be involved in the care of foster children, may I verify the spouse who will provide care individually as a foster parent?

January 2007

Medium — No. In order for one spouse to be a foster parent, you must verify both of them to provide foster care.

§749.2403. What minimum age requirement must foster parents and caregivers meet?

January 2007

Medium-High — Each caregiver in a home that you verify on or after January 2007, must be at least 21 years old. Each caregiver in a home that you verified prior to that date must be at least 18 years old.

§749.2405. Will my home have to be re-verified if I am a single foster parent and I get married after my home is verified?

January 2007

Medium — Yes, you will have to re-verify that home in both spouse's names.

§749.2407. May a home be verified or approved by more than one child-placing agency simultaneously?

September 2010

Medium-High — (a) A home may not be verified to provide foster care services by more than one child-placing agency at one time.

(no weight) — (b) A home may be simultaneously verified by one child-placing agency for foster care services only and approved by another child-placing agency(ies) for adoption only.

Division 2, Foster Home Screenings

§749.2445. What is a foster home screening?

March 1, 2008

High (a) You must complete a foster home screening prior to verifying the foster home.

Medium-High (b) Your child placement management staff must review and approve each foster home screening.

(c) The foster home screening must document:

Medium (1) Required information (see §749.2447 of this title (relating to What information must I obtain for the foster home screening?));

Medium (2) An assessment of the information obtained to determine whether the applicant meets the requirements for verification; and

Medium (3) An evaluation of the information obtained in order to make recommendations about the applicant's capacity to work with children, including but not limited to age, gender, special needs, and number of children.

Medium-High (d) You must report to Licensing all information obtained under §749.2447(7) of this title regarding the prospective foster family's domestic violence history, as applicable. You must report this information regardless of whether you verify the home.

§749.2447. What information must I obtain for the foster home screening?

September 2014

You must obtain, document, and assess the following information about a prospective foster home:

Required Information	Description of Discussion, Assessment and Documentation Requirements	Weight
(1) The age of the prospective foster parents. Ages of all other members of the household.	All prospective foster parents must be at least 21 years old. You must document the ages of all household members and include documentation verifying the ages of the foster parents.	Medium
(2) The educational level of the prospective foster parents.	You must ensure and document that each foster parent is able to comprehend and benefit from training and provide appropriate care and supervision to meet the needs of children in care, in areas such as health, education, and discipline/behavior management, by doing either or both of the following: (A) Require that foster parents have a high school diploma or a G.E.D. high school equivalency. The Texas Education Agency (TEA) or another public education entity outside of Texas must recognize the high school program or high school equivalent program; or (B) Have a screening program that: (i) Ensures that each foster parent is able to be an appropriate role model for children in placement; (ii) Ensures that each foster parent is able to communicate with the child in the child's own language, or has other means to communicate with the child in the child's own language; and (iii) Addresses adequately basic competencies that would otherwise be met by a high school diploma or G.E.D. including basic reading, writing, and math.	Medium
(3) Personal characteristics.	You must document information from foster parents that demonstrate:	
	(A) Emotional stability, good character, good health, and adult responsibility; and	Medium-High
	(B) The ability to provide nurturing care, appropriate supervision, reasonable discipline, and a home-like atmosphere for children.	Medium-High
(4) History of current and previous interpersonal relationships, including marriages, common-law marriages, and other relationships between people who share or have shared a domestic life without being married.	You must document information regarding the marital status of the foster parents, including the present marital status, as well as a history of previous marriages or significant interpersonal relationships. You must include a description of the marriage or relationship, including reasons why any previous marriages or significant interpersonal relationships were ended.	Medium

(continued)

Required Information	**Description of Discussion, Assessment and Documentation Requirements**	Weight
(5) A history of the prospective foster parents' residence and their citizenship status.	You must document the:	
	(A) Length of time spent at each residence for the past 10 years (street address, city, state); and	Medium-Low
	(B) Citizenship of the prospective foster parents.	Medium-Low
(6) The financial status of the prospective foster family.	You must discuss with the prospective foster parents the current reimbursement process and the foster parents' understanding of that process.	Medium
	You must verify and document that the prospective foster parents have sufficient up-front income or other readily available assets to support their household and all children in care prior to receiving the foster care reimbursement for services provided. For each prospective foster parent you must obtain, document and assess the following:	Medium
	(A) Proof of income for the past 60 days or two complete calendar months. Disability, social security, and/or other sources of income such as family support, Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF) must be included, as applicable;	Medium
	(B) A copy of two consecutive itemized bank statements and/or the previous year's tax return. The bank statements must be related to the previous two calendar months prior to the date of application. If a foster family does not have two consecutive itemized bank statements or a previous year's tax return, then you must copy and document the evidence used to verify the financial status of the prospective foster family, including documenting the information used to verify the itemized monthly household expenses; and	Medium
	(C) A monthly household expense report itemizing the following expenses: (1) Mortgage/Rent; (2) Utilities; (3) Transportation; (4) Food; (5) Medical; (6) Clothing; (7) Insurance; (8) Credit cards and loans; (9) Legal (i.e. attorney fees, alimony and/or child support); (10) Pet; and (11) Entertainment/miscellaneous.	Medium

(continued)

Required Information	**Description of Discussion, Assessment and Documentation Requirements**	Weight
(7) The results of criminal history and central registry background checks conducted on the prospective foster parents and any non-client person 14 years of age or older who regularly or frequently stays or is present in the home.	Persons applying to foster children and any person, excluding clients, 14 years of age or older who will regularly or frequently be staying or present at the home, must obtain a criminal history and central registry background check. See Chapter 745, Subchapter F of this title (relating to Background Checks). The results of those checks must be documented in the foster home screening and the foster home record. With respect to law enforcement service call information, you must do the following: (A) Obtain service call information from the appropriate law enforcement agency for the prospective foster parents' addresses for the past two years. Discuss with the prospective foster parents any service call information that you obtain from a law enforcement agency and the facts surrounding the incident. (B) Whether results were found or not, ask the prospective foster parents whether any law enforcement agency has responded to any of their residences in the past two years. If you obtain additional information from the prospective foster parents, request background information from each law enforcement agency that responded. Discuss the incident and any additional background information that you obtain with the prospective foster parents. (C) Assess and document information obtained from law enforcement and any discussion with the prospective foster parents in the foster home screening.	High High High High
(8) The prospective foster parents' motivation to provide foster care.	Assess and document the prospective foster parents' motivation and willingness to provide foster care.	Medium
(9) Health status of all persons living in the home.	Document information about the physical and mental health status (including substance abuse history) of all persons living in the home in relation to the family's ability to provide foster care. You must discuss whether any health-related issues noted may affect the prospective foster parent's ability to care for a child in care. You must also observe these persons for any indication of problems and follow up, where indicated, with a professional evaluation. Document the information obtained through your observations and, if applicable, professional evaluations.	Medium

(continued)

Required Information	**Description of Discussion, Assessment and Documentation Requirements**	Weight
(10) The quality of the current interpersonal relationship, including marriage, common-law marriage, or a relationship between people who share a domestic life without being married, and family relationships.	Discuss, assess, and document the quality of current and previous interpersonal and family relationships in relation to the family's ability to provide foster care. You must discuss and assess the stability of a couple's current and previous relationships, the strengths and problems of the relationship, and how those issues will affect the current environment and the prospective foster parents' ability to care for any foster children placed in the home. You must discuss and assess the quality of the relationships between prospective foster parents and their children, living in or out of the home, strengths and problems of those relationships, and how those issues will relate to foster children placed in the home.	Medium
(11) The prospective foster parents' feelings about their childhoods and parents.	Discuss, assess, and document the prospective foster parents' feelings about their childhoods and parents, including any history of abuse or neglect and their resolution of those experiences.	Medium
(12) The prospective foster parents' attitudes about a foster child's or his biological family's religion.	Evaluate and document prospective foster parents on:	Medium-Low
	(A) Their willingness to respect and encourage a child's religious affiliation, if any;	Medium-Low
	(B) Their willingness to provide a child the opportunity for religious and spiritual development, if desired; and	Medium-Low
	(C) The health protection they plan to give a child if a foster parent's religious beliefs prohibit certain medical treatment.	Medium-High
(13) The prospective foster parents' values, feelings, and practices in regard to child care and discipline.	Discuss, assess, and document the applicants' knowledge of child development and their child-care experience. Discuss and assess the ways the applicants were disciplined as children and their reactions to the discipline they received. Discuss and assess the prospective foster parents' discipline styles, techniques, and their ability to recognize and respect differences in children and use discipline methods that suit the individual child. Discuss your approved disciplinary methods, which must comply with Subchapter K, Division 6 of this chapter (relating to Discipline and Punishment). If the prospective foster parents' current discipline methods are different than those that you approve, discuss and assess how they would change their child-care practices to conform to your approved methods.	Medium-High

(continued)

Required Information	Description of Discussion, Assessment and Documentation Requirements	Weight
(14) The prospective foster parents' sensitivity to and feelings about children who may have been subjected to abuse or neglect.	Discuss, assess, and document the prospective foster parents' understanding of the dynamics of child abuse and neglect. Discuss and assess their understanding of how these issues and experiences will affect them, their families, and foster children in their care. Discuss and assess the prospective foster parent's ability to help children who have been abused or neglected. If a prospective foster parent experienced abuse or neglect as a child, assess his handling of those experiences and the impact of those experiences on the applicant's ability to help children deal with their own experiences. Assess the availability of family and community resources to meet the needs of the children in the family's care.	Medium-High
(15) The prospective foster parents' sensitivity to and feelings about children's experiences of separation from or loss of their biological families.	Discuss, assess, and document the prospective foster parents' understanding of the dynamics of separation and loss and the effects of these experiences on children. Discuss and assess their personal experiences with separation and loss and their processing of those experiences. Assess the potential foster parents' acceptance of the process of grief and loss for children and assess their ability to help a child through the grieving process.	Medium
(16) The prospective foster parents' sensitivity to, and feelings about, a child's biological family.	Discuss, assess, and document the prospective foster parents' feelings about the child's parents, including the issue of abuse or neglect of the child by the child's parents or other family members. Discuss and assess their sensitivity and reactions to the child's parents. Discuss and assess their sensitivity to and acceptance of a child's feelings about the child's parents and assess their ability to help the child deal with those feelings. Discuss and assess the prospective foster parents' sensitivity to and acceptance of the child's relationships with the child's siblings. Discuss and assess their willingness to support the child's relationships with parents, siblings, and extended family including their support for contacts between the child and the child's family.	Medium-Low
(17) The attitude of other household members about the prospective foster parents' plan to provide foster care.	Discuss, assess, and document the attitudes of other household members toward the plan to provide foster care. Discuss and assess their involvement in the care of foster children, their attitudes toward foster children, and their acceptance of the verification as a foster family.	Medium
(18) The attitude of the prospective foster parents' extended family regarding foster care.	Discuss, assess, and document the extended family's attitude toward foster care and foster children and the involvement the extended family will have with foster children. Discuss and assess the impact the extended family's attitudes will have on the family's ability to provide foster care and whether the extended family will serve as a support system for the foster family and for foster children.	Medium

(continued)

Required Information	**Description of Discussion, Assessment and Documentation Requirements**	Weight
(19) Support systems available to prospective foster parents.	Discuss, assess, and document the support systems available to each foster parent and the support the family may receive from these resources. You must ask each prospective foster parent for information about any person who may provide support as a caregiver during an unexpected event or crisis situation, such as an illness or disability of a foster parent, loss of transportation, or the death of an immediate family member. Verify and document identifying information and availability of each person that will provide support as a caregiver.	Medium
(20) The prospective foster parents' expectations of and plans for foster children.	Discuss, assess, and document the prospective foster parents' expectations of the child and the flexibility of their expectations in relation to the child's actual needs and abilities. Discuss and assess their capacities to recognize and emphasize the strengths and achievements of the child and their capacities to adjust their expectations according to the abilities of the child.	Medium-High
(21) The language(s) spoken by the prospective foster parents.	Document the language(s) spoken by each prospective foster parent.	Medium
(22) Prospective foster parent's ability to work with specific kinds of behaviors and backgrounds.	Discuss, assess, and document each prospective foster parent's willingness and ability to work with specific and challenging behaviors of foster children, including such things as backgrounds, special needs and/or disabilities.	Medium-High
	Discuss, assess, and document the prospective foster parents' understanding of the concepts of trauma informed care and how they would use those concepts in the care, treatment, and management of children placed in their home.	Medium-High
	Discuss, assess and document the prospective foster parents' willingness and ability to:	
	(A) Care for and work with children of a specific gender;	Medium-High
	(B) Care for and work with children of a specific age range;	Medium-High
	(C) Care for a specific number of children, including whether or not the children are part of the same sibling group;	Medium-High
	(D) Provide respite care services to any additional number of children of a specific gender, within a specific age range, and with special needs that the family will not be providing care for full time; and	Medium-High
	(E) Provide any additional services Licensing regulates according to §749.61 of this title (relating to What types of Services does Licensing regulate?).	Medium-High

(continued)

Required Information	**Description of Discussion, Assessment and Documentation Requirements**	Weight
(23) Background information from other child-placing agencies.	Request and assess the following background information (if provided) from any child-placing agency that previously conducted a foster home screening, pre-adoptive home screening, or post placement adoptive report:	Medium
	(A) The screening, report, and related documentation;	Medium
	(B) Documentation of supervisory visits and evaluations;	Medium
	(C) Any record of deficiencies and their resolutions; and	Medium
	(D) The most current fire and health inspections.	Medium
	You must address the closure or any identified risk indicators, as applicable, with the prospective foster parents before approval and verification of the home if the background information indicates that:	
	(AA) The foster home was previously closed by a child- placing agency; or	Medium
	(BB) There was one or more potential risk indicators that the child placing agency did not adequately address with the foster parents.	Medium

§749.2449. Whom must I interview when conducting a foster home screening?

September 2014

(a) Interviews for a foster home screening must be documented and must include at least:

Medium (1) One individual interview with each prospective foster parent;

Medium (2) One individual interview with each child three years old or older living in the home either full- or part-time;

Medium (3) One individual interview with each other person living in the home either full- or part-time;

Medium (4) One joint interview with the prospective foster parents;

Medium (5) One family group interview with all family members living in the home;

Medium (6) One interview, by telephone, in person, or by letter, with each minor child 12 years old or older or adult child of the prospective foster parents not living in the home;

Medium (7) A minimum of one interview, by telephone, in person, or by letter with a family member not living in the home and not already interviewed; and

Medium (8) A minimum of two interviews, by telephone, in person, or by letter with neighbors, school personnel if the prospective foster parents have school age children, clergy, or any other member of the prospective foster parents' community who are unrelated to the foster parents and can provide a description of the prospective foster parents' suitability to provide care for children.

Medium-High (b) You must visit the home at least once when all members of the household are present.

Helpful Information

Individuals who may visit in the foster home, such as relatives who spend vacations or holidays, are not considered to be living in the home part time. Examples of persons living in the home part time include:

- *Children of prospective foster parent(s), including children attending college but who are in the home for weekends, holidays, and/or vacations or children who live in other living arrangements (with custodial parents, in boarding schools, etc.) but who are present in the home on weekends, vacations, holidays.*
- *Parents of the foster parents who may live in the home for a number of weeks or months each year.*
- *Friends who live with the family while unemployed.*

Omitted from this publication:

§749.2451. What must I document regarding interviews I conduct for a foster home screening?

§749.2453. When must I update the foster home screening?

Division 3, Verification of Foster Homes

§749.2471. What must I do to verify a foster home?

September 2014

Verifying a foster home includes the following steps:

Medium (1) Completing and documenting the requirements for §749.2447 of this title (relating to What information must I obtain for the foster home screening?);

Medium (2) Completing and documenting the required interviews as specified in §749.2449 of this title (relating to Whom must I interview when conducting a foster home screening?);

(3) Obtaining the following:

Medium-Low (A) A floor plan of the home showing dimensions and purposes of all rooms in the home and identifying indoor areas for children's use;

Medium-Low (B) A sketch or photo of the outside areas showing buildings, driveways, fences, storage areas, gardens, recreation areas, pools, ponds, or other bodies of water;

Medium-High (C) An approved fire inspection; and

Medium-High (D) An approved health inspection;

Medium-High (4) Inspecting the home to ensure and document that the home meets appropriate rules of this chapter, including:

Medium-High (A) Tuberculosis screening, see §749.1417 of this title (relating to Who must have a tuberculosis (TB) examination?);

Medium (B) Subchapter K of this chapter (relating to Foster Care Services: Daily Care and Problem Management); and

Medium-High (C) Subchapter O of this title (relating to Foster Homes: Health and Safety Requirements, Environment, Space and Equipment);

Medium (5) If the home will provide treatment services, ensuring that the home complies with the policies developed according to §749.349 of this title (relating to What additional policies must I develop for foster parents that provide treatment services?);

Medium (6) If the home will provide a transitional living program, ensuring the home complies with the policies developed according to §749.351 of this title (relating to What policies must I develop for foster parents who offer a transitional living program?);

Medium-High (7) Evaluating all areas required in this subchapter, and making recommendations regarding the home's ability to care for and work with children with respect to a child's gender and age, the number of children, and the types of services to be provided;

(continued)

Medium (8) If there are any indicators of potential risk to children based on the assessment and evaluation of an area required in this subchapter, documenting the indicators and how you addressed them with the prospective foster family prior to approval and verification of the home;

Medium (9) Obtaining from the child placement management staff review and approval of the home screening, and the recommended verification of the home; and

Medium-Low (10) Issuing a verification certificate that specifies the:

Low (A) Name of the foster home;

Low (B) Foster home address and/or location;

Low (C) Foster home's total capacity, which includes the biological and adopted children of the caregivers who live in the foster home, any children receiving foster or respite child-care, and children for whom the family provides day care;

Low (D) Foster home's foster care capacity, a subset of the total capacity which includes only children placed for foster care or respite child care;

Low (E) Ages and gender(s) of children for which the home is verified to provide foster care or respite child care;

Low (F) Types of services the foster home will provide;

Low (G) Agency's main office or branch office which issued the verification; and

Low (H) Expiration date of a time-limited verification, if applicable.

§749.2472. Are there any additional requirements to verify a foster home that is currently acting as a kinship home with the Child Protective Services (CPS) Division of the Department?

December 2014

Medium-High Yes, before you may verify a kinship home, you must obtain and review the kinship home assessment that was completed.

Omitted from this publication:

§749.2473. What must I do to verify a foster home that another child-placing agency has previously verified?

§749.2475. To whom must I release information regarding a family on which I previously conducted a foster home screening, pre-adoptive home screening, post placement adoptive report, or home study?

§749.2477. May I verify a foster home prior to approval by child placement management staff?

January 2007

No. Before you can verify a foster home, child placement management staff must:

Medium-High (1) Review and approve the verification, including the documented foster home screening, home study, and other requirements; and

Medium-Low (2) Sign and date the document.

§749.2479. May I place children in a foster home before verifying the home?

January 2007

Medium-High No, you cannot place children in a foster home before completing the foster home screening and verification.

§749.2481. What type of certificate must a foster home have in order to prove verification?

January 2007

(a) You must give the home a verification certificate after:

Low (1) Verifying the home; and

Low (2) Making any change that affects the verification certificate.

Low (b) The home must post the current verification certificate or have it immediately available upon request.

§749.2483. Do foster parent applicants have to own the home they live in for it to be their primary residence?

January 2007

(no weight) No, they do not have to own or rent the home they live in for it to be considered their primary residence.

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

January 2007

Medium-Low (a) You must verify the home in the name of one foster family for whom the home is the primary residence. You may only verify the home in the name of one foster family.

Medium-Low (b) A home is considered a primary residence if the person lives there on a routine basis and:

(1) It is the place of residence on their most recent tax return; or

(2) It is the address listed on their motor vehicle registration, driver's license, voter's registration, or other document filed with a public agency.

(no weight) (c) Foster group homes verified before January 2007, are exempt from the requirements in this rule.

§749.2487. What are the requirements for an agreement that I have with a foster home that I verify?

January 2007

Medium-Low (a) You must sign a written agreement with each agency foster home at the time that you verify the home. You and the foster home must each have copies of the signed agreement. You must file a copy in the agency home record.

(b) The agreement must specify the following:

Medium (1) The foster parents' responsibility for complying with rules of this chapter;

Low (2) The financial agreement between you and the foster home;

Medium-Low (3) The foster home agrees not to admit a non-relative child for 24-hour care from any source other than you;

Low (4) You have the right to remove the child from the home at your discretion;

Medium-Low (5) You must consent to any discharge of a child from the home;

Medium-Low (6) Visits by the child's parents or relatives must be arranged through you;

Medium-Low (7) You are responsible for regular supervision of the foster home;

Medium-Low (8) The foster parents' commitment to comply with your policies regarding child care, discipline, supervision of children, and children's visits or trips away from the foster home; and

Medium-Low (9) The foster parents' commitment to comply with your policies about foster parents' reports to you regarding foster children and events or occurrences impacting the provision of foster care.

§749.2488. What statement must I provide to foster parents regarding foster parent and child-placing agency rights and responsibilities?

September 2010

Medium (a) You must provide foster parents with a written copy of the following statement that lists the rights and responsibilities of foster parents and the child-placing agency:

Low (1) Foster parents have the right to be treated with dignity, respect, and consideration as a member of the service planning team;

Low (2) Foster parents have the right and responsibility to participate in service planning and implementation of the service plan;

Medium (3) Foster parents have the right and responsibility to obtain training that will assist them in meeting the needs of children placed in their home;

Medium (4) The child-placing agency has a responsibility to assist foster parents in identifying training that will enhance the foster parents ability to meet the needs of children placed in their home;

Low (5) Foster parents and the child-placing agency have the responsibility to communicate with each other in a timely and effective manner;

(continued)

Low (6) Foster parents have the right to be reimbursed for care of the children placed in their home in a timely manner and according to the child-placing agency's policy;

Medium (7) The child-placing agency has the responsibility to provide relevant information about a child to foster parents when placing or considering placing the child;

Medium (8) Foster parents have the right and responsibility to obtain information and ask questions about children the child-placing agency would like to place in their home, including requesting a pre-placement visit;

Low (9) Foster parents have the right to know how much discretion they have in declining specific placements without fear of negative repercussions;

Low (10) The child-placing agency has the responsibility to provide support to all of their foster parents and inform them of any services available to foster parents;

Medium (11) Foster parents have the responsibility to report to the child-placing agency and Licensing information as required by the child-placing agency's policies and this chapter;

Low (12) Foster parents have the right to appeal child-placing agency actions and decisions that affect them and to know the procedures for making an appeal;

Medium (13) Foster parents have the responsibility to comply with this chapter as applicable;

Medium (14) The child-placing agency has the responsibility to provide foster parents with support, training, and oversight in order to ensure the foster parents are in compliance, as applicable, with this chapter; and

Low (15) Foster parents have the right to review their foster home record maintained by the child-placing agency.

Medium-Low (b) You and the foster parents must sign a copy of the statement at the time you verify the home.

Medium-Low (c) The foster home must have a copy of the signed statement.

Medium-Low (d) You must file a copy of the signed statement in the foster home record maintained by the child-placing agency.

§749.2489. What information must I submit to Licensing about a foster home's verification status?

December 2010

You must submit information to us within two working days of:

Medium (1) Verifying a new foster home;

Medium-Low (2) Temporary verification of a foster home and when the verification is no longer temporary;

Medium-Low (3) Putting a foster home on inactive status or taking a foster home off of inactive status;

Medium-Low (4) Changing conditions of the verification for an existing home;

Medium-Low (5) Extending a time-limited verification;

Medium-Low (6) Changing a time-limited verification to a non-expiring verification; or

Medium-Low (7) Closing a foster home, including:

Medium-Low (A) The reason the foster home closed; and

Medium-Low (B) The name and contact information of a person at your agency who may be contacted by another child-placing agency to obtain records relating to the closed foster home.

§749.2491. May I verify a foster home to provide different services?

September 2010

Medium (a) You may verify a foster home to provide different services as long as a child placement staff completes an assessment of the home that includes a review of the following:

Medium (1) The number, ages, and needs of children to be placed in the home;

Medium-High (2) The foster home's capacity to provide each different service and supervise all children appropriately;

Medium (3) The needs of any children currently in the home; and

Medium-High (4) The foster parents' experience and ability to provide each service.

Medium-Low (b) The child placement staff must sign, date, and document this assessment in the foster home record. The different services permitted must be listed on the verification certificate.

Medium-Low (c) Child placement management staff must review and approve the documentation prior to the placement of a child. You must document the review and approval in the record.

(continued)

Medium (d) For each placement of a child into a home verified to provide multiple types of services, a child placement staff must ensure there will be no conflict of care. Examples of conflicts in care are placements that:

(1) Place one child at serious risk for harm by another child;

(2) Significantly compromise the care and supervision of any child in care;

(3) Require a level of expertise by the foster parents and/or caregivers that they do not possess; or

(4) Create an environment that is appropriately restrictive for one child but inappropriate for another.

Medium (e) A child needing treatment services may only be placed in a foster home that is verified to provide the treatment services needed by that child. If the treatment service needs of any of the children in a foster home changes and the home is not verified to provide that particular treatment service, the foster parent must notify the child placement staff and a new assessment of the home must be completed, signed, and dated by the child placement management staff. If the foster home is not approved to provide the services after the assessment, then the child must be moved to a placement that can provide the needed services.

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

September 2010

A foster group home may not provide day care in addition to foster care. A foster family home may provide day care in addition to foster care under the following conditions:

Medium (1) The number and ages of children in both types of care must meet all relevant laws and rules, including the requirements listed in §745.375 of this title (relating to May I offer child day care at my agency foster home or independent foster home?);

Medium (2) The caregivers can supervise all children appropriately, can meet all children's' needs, and can protect all children in both foster and day care;

Medium (3) There is adequate space and there are adequate staff or caregivers to meet all applicable rules;

Medium (4) The child-placing agency completes a written assessment, signed by child placement management staff, of the:

Medium (A) Needs of the children in foster care and how the needs of the children in day care may impact the foster children; and

Medium (B) Basis for determining no conflict of care exists in providing the two types of care; and

Medium (5) Both the Residential Child-Care and Child Day-Care Divisions of Licensing approve.

§749.2495. Do foster home verifications expire?

December 2010

(no weight) Only temporary and time-limited verifications have expiration dates. All other verifications are non-expiring.

Omitted from this publication:

§749.2497. Are transfer/closing summaries required for foster homes?

Division 4, Temporary and Time-Limited Verifications

§749.2520. What is the purpose of a temporary verification and a time-limited verification?

December 2010

(no weight) (a) The purpose of a temporary verification is to permit continued care of foster children in a verified foster home when a foster family moves from one residence to another and there is a short-term delay in ensuring the foster home will continue to meet all minimum standards in the new location. For example, fire and health inspections cannot be obtained prior to the move.

(no weight) (b) The purpose of a time-limited verification is to permit you to limit the length of time a home will be verified to provide foster care by assigning the verification a pre-determined end date, after which the home will no longer be verified to provide foster care. Foster homes with time-limited verifications must meet the same rules as foster homes with non-expiring verifications.

§749.2521. What must I do prior to issuing a temporary verification?

December 2010

(a) You may only issue a temporary verification after:

Medium (1) You inspect the new location;

Medium (2) You determine that the home meets the minimum standards, including all health and safety, environment, and space and equipment standards; and

Low (3) The child placement management staff review and approve the temporary verification by signing and dating it.

Medium-Low (b) You may not use a temporary verification to change the verification conditions (number of children, age, gender, or services provided) of an agency home other than residence address.

Low (c) You may not issue a temporary verification if no children are in placement in the foster home.

§749.2523. For what length of time can I issue a temporary verification?

January 2007

Low (a) You may issue a temporary verification for up to six months.

Low (b) A temporary verification is valid for no longer than six months from the date the verification is issued. You may not renew the temporary verification.

§749.2525. Can foster children remain in the foster home while a temporary verification is in effect?

January 2007

Medium-Low Yes, children who were in the care of the foster family at the time of the move may continue to live in the foster home while the temporary verification is in effect. However, you may not make new placements of children into a home that is temporarily verified.

§749.2527. What must I do to issue a time-limited verification?

December 2010

(no weight) You must issue a time-limited verification according to the same rules and procedures as a non-expiring verification.

§749.2529. For what length of time may I issue a time-limited verification?

December 2010

(no weight) You may issue a time-limited verification for any length of time you determine to be appropriate.

§749.2531. Can I extend a time-limited verification or change the verification from time-limited to non-expiring?

December 2010

(no weight) Yes. To extend a time-limited verification or change the verification from time-limited to non-expiring, you must comply with the requirements in Subchapter N of this chapter (relating to Foster Homes: Management and Evaluation).

Division 5, Capacity and Child/Caregiver Ratio

§749.2550. What does “children with primary medical needs requiring total care” mean when used in this Division?

December 2014

(no weight) “Children with primary medical needs requiring total care” means children receiving treatment services for primary medical needs who are completely or primarily dependent upon the foster parents for their activities of daily living, such as eating/feeding, bathing, grooming, dressing and ambulation.

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

December 2014

Medium-High (a) A two-parent foster family home or one-parent foster family home with one additional full-time, live-in caregiver may care for up to six children, except as noted in the chart below:

If the home cares for:	Then the maximum number of children the home may care for is:	Weight
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.	Medium-High
One child or more receiving treatment services for primary medical needs	• 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.	Medium-High

(b) 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:

If the home cares for:	Then the maximum number of children the home may care for is:	Weight
Any child less than five years old	Five	Medium-High
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.	Medium-High
Three or more children receiving treatment services	Four	Medium-High
One child or more receiving treatment services for primary medical needs	• 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, may continue to care for up to four children with no limitation.	Medium-High

(continued)

(no weight) (c) 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 title (relating to May a foster home accept adults into the home for care?).

§749.2553. What is the maximum number of children that a foster group home may care for?

January 2007

Medium-High (a) A foster group home may care for up to 12 children, including any biological and adopted children of the caregivers who live in the foster home and any children receiving foster or respite child-care.

Medium-High (b) All adults in care must also be counted in the capacity of the home as specified in §749.2651 of this title (relating to May a foster home accept adults into the home for care?).

§749.2555. How do I determine capacity?

January 2007

Capacity of the home is based on the:

Medium-High (1) Number of caregivers, and the age of the children in the home and in placement;

Medium-High (2) Services being provided and the needs of the children in care;

Medium (3) Amount of space available for children; and

Medium-Low (4) Bathroom accommodations in the home.

§749.2557. May a foster home exceed its verified capacity?

September 2010

Medium-High (a) The number of children in a foster home, including the biological and adopted children of the caregivers who live in the foster home, any children receiving foster or respite child-care, and children for whom the family provides day care, must not exceed the total capacity stated on the home's verification.

Medium-High (b) Children visiting the home or in the home for infrequent babysitting are not counted in the capacity of the home. However, the caregivers in the home must ensure that the presence of additional children in the home does not prevent adequate supervision of children in foster and respite child-care.

§749.2563. How do I determine child/caregiver ratio for a foster group home?

September 2010

Medium-High (a) The number of children one caregiver may supervise in a foster group home is eight, unless the home meets one of the criteria in the chart below:

If the home cares for:	**Then the number of children one caregiver may care for is:**
One child under age 5	One caregiver to five children
More than two children receiving treatment services (for children with primary medical needs, see below)	One caregiver to four children
One child with primary medical needs	One caregiver to four children

Medium-High (b) Children visiting the home or in the home for infrequent babysitting are not counted in the child/caregiver ratio. However, the caregivers in the home must ensure that the presence of additional children in the home does not prevent adequate supervision of children in foster and respite child-care.

(no weight) (c) A child may be away from the foster home and caregivers in order to participate in an approved unsupervised activity as outlined in §749.2593(d) of this title (relating to What responsibilities does a caregiver have when supervising a child?). A child does not count in the child/caregiver ratio while participating in an approved unsupervised activity.

Helpful Information

Children attending an event in a foster home (birthday party, Boy Scout meeting, sleepover, etc.) are not required to be counted in the child/caregiver ratio. Child/caregiver ratios only apply to biological and adopted children of the caregivers who live in the foster home, any children receiving foster or respite child-care in the home, and children for whom the family provides day care. However, foster parents must ensure appropriate care and supervision to children in care during these events.

§749.2565. Are there restrictions on placing a child younger than five years old in a foster group home?

September 2010

(a) You may only place a child who is younger than five years old in a foster group home if you determine that:

Medium (1) The placement is necessary to maintain a sibling group of children of any age; and

Medium (2) A less restrictive setting cannot meet the needs of the sibling group.

Medium (b) You must document your decision in the child's record.

Helpful Information

You may place a sibling group with children of any age into a foster group home if you have determined that the placement is necessary to keep the sibling group together and there is not a foster family home available to meet the needs of the sibling group. Your decision must be documented in the record of each child under five years old. When making this decision, you must also consider whether the foster home will be able to maintain the ratio requirements in §749.2563.

§749.2566. Are there restrictions on placing a child receiving treatment services for primary medical needs in a foster group home?

December 2014

Medium-High (a) You may only place a child receiving treatment services for primary medical needs in a foster group home if you determine that:

(1) The placement is necessary to maintain a sibling group of children, and a less restrictive setting cannot meet the needs of the sibling group; or

(2) The foster group home was verified by you to provide treatment services to children with primary medical needs before January 1, 2015.

Medium (b) You must document the exception for placement into a foster group home in the child's record.

§749.2567. Must a home maintain the child/caregiver ratio at all times?

September 2010

Medium-High (a) A foster group home that is not the primary residence of any caregiver must maintain the required child/caregiver ratio at all times.

Medium-High (b) A foster group home that is the primary residence of at least one caregiver may be out of ratio during waking hours for short periods as long as the care and supervision needs of the children continue to be met, except that the home must comply with subsection (c) of this section.

Medium-High (c) For a foster group home that is the primary residence of at least one caregiver, if three caregivers are required to meet the child/caregiver ratio, there must be at least two caregivers with the children during waking hours.

Medium-High (d) A foster group home that is the primary residence of at least one caregiver may be out of ratio during night-time sleeping hours as long you have a safety plan for night-time supervision which ensures that the care and supervision needs of the children continue to be met.

Medium-High (e) When all children in care are away from the home, at least one caregiver must be on-call and immediately available to:

Medium-High (1) Respond to emergencies, changes in schedules, or unplanned events; and

Medium-High (2) Provide care and supervision whenever a child needs the attention of a caregiver, including when the child returns to the home.

Division 6, Supervision

§749.2591. How am I responsible for ensuring adequate supervision of children in care?

January 2007

(a) Your child placement management staff must ensure that supervision of children in care adequately accounts for the following:

Medium-High (1) Specific needs of the children in care in each home;

Medium-High (2) Non-routine events taking place in the lives of individual children, the foster parents, or the group of children in care; and

Medium-High (3) The children's history, including background of abuse or neglect by caretakers, sexual or physical abuse against others, fire-setting, maiming or killing animals, suicide attempts, and run-away behaviors.

Medium-High (b) Your child placement management staff must also approve a written plan for the increased supervision of a child who presents an immediate harm to himself or others.

§749.2593. What responsibilities does a caregiver have when supervising a child?

December 2014

(a) The caregiver is responsible for:

High (1) Knowing which children they are responsible for;

High (2) Being aware of and accountable for each child's on-going activity;

High (3) Providing the level of supervision necessary to ensure each child's safety and well being, including auditory and/or visual awareness of each child's on-going activity as appropriate;

High (4) Being able to intervene when necessary to ensure each child's safety; and

High (5) Not performing tasks that clearly impede the caregiver's ability to supervise and interact with the children while being responsible for the supervision of the children and meet any service-planning requirement regarding supervision of any child.

(b) In deciding how closely to supervise a child, the caregiver must take into account:

Medium-High (1) The child's age;

Medium-High (2) The child's individual differences and abilities;

Medium-High (3) The indoor and outdoor layout of the home;

Medium-High (4) Surrounding circumstances, hazards, and risks; and

Medium-High (5) The child's physical, mental, emotional, and social needs.

(continued)

(c) Caregivers counted in the child/caregiver ratio must:

Medium-High (1) Be aware of the children's habits, interests, and any special needs;

High (2) Provide a safe environment;

Medium-High (3) Cultivate developmentally appropriate independence in children through planned but flexible program activities;

Medium-High (4) Positively reinforce children's efforts and accomplishments;

Medium-High (5) Ensure continuity of care for children by sharing with incoming caregivers information about each child's activities during the previous shift and any verbal or written information or instructions given by the parent or other professionals; and

Medium-High (6) Implement and follow the children's service plans.

Medium-High (d) Children in care must participate in normal childhood activities, including unsupervised activities, as much as possible. Service planning meetings, and any decision making regarding the child's need for supervision, must include discussions and consideration of normalcy for the child. Moreover, the child's service plan must specify the general parameters within which the foster parent is empowered to make decisions regarding childhood activities. The child may participate in unsupervised activities approved by the foster parent in accordance with subsection (e) of this section and §749.2594 of this title (relating to Who should make the decision regarding a foster child's participation in childhood activities?).

Medium-High (e) Foster parents should use a "reasonable and prudent parent" standard to decide whether a child may participate in an unsupervised activity:

Medium-High (1) In making this decision a "reasonable and prudent parent" standard includes the assessment of the:

Medium-High (A) Child's age;

Medium-High (B) Child's abilities;

Medium-High (C) Child's physical, mental, emotional, and social needs;

Medium-High (D) Whether the activity is a normal childhood activity;

Medium-High (E) Desires of the child;

Medium-High (F) Surrounding circumstances, hazards, and risks of the activity;

Medium-High (F) Other adults or children involved in the activity;

Medium-High (H) Outside supervision of the activity, if available and appropriate; and

Medium-High (I) Supervision instructions in the child's service plan.

(continued)

Medium-High (2) When a child participates in an unsupervised activity, the caregiver must:

Medium-High (A) Know where the child is scheduled to be;

Medium-High (B) Give the child a specific time to return to the foster home or the caregiver's location;

Medium-High (C) Give the child a way to contact the caregiver in an emergency; and

Medium-High (D) Be available to respond if the child contacts the caregiver and needs immediate assistance.

Medium (f) Caregivers that supervise a child receiving treatment services must maintain progress notes for the child, at a frequency determined by the service planning team. Caregivers must sign and date each progress note at the time the progress note is completed. Progress notes must be available for Licensing staff to review.

Helpful Information

Regarding subsection (d), children may also be away from the foster home and caregivers in order to participate in an activity supervised by adults not affiliated with the agency or foster home, such as an event sponsored by a religious youth group, Boy Scout or similar event, school-sponsored social event (like a dance), etc. The same expectations outlined in subsection (d) of this rule apply to these types of activities.

§749.2594. Who should make the decision regarding a foster child's participation in childhood activities?

December 2014

Medium-High (a) Except as otherwise provided in this section, the foster parents should make decisions regarding a foster child's participation in childhood activities, whether supervised or unsupervised. The decision should be made as any other reasonable and prudent parent would make the same decision for a child of similar chronological and developmental age with similar needs and abilities. Childhood activities include family activities, extracurricular activities, social activities in and out of school, and employment opportunities.

Medium (b) For a child in DFPS conservatorship, if the child's managing conservator provides notice in advance that the child is prohibited from participating in a specific activity, the foster parents must follow the conservator's decision.

Medium (c) For private placements, the foster parents must follow the parent's decision regarding childhood activities.

§749.2595. May I use a video camera to supervise a child in the child's bedroom?

January 2007

(no weight) (a) Video cameras may be used to supervise infants and toddlers.

(b) Video cameras may not be used to supervise children, other than infants and toddlers, unless the:

Medium (1) Parent, or other person legally authorized to consent, consents to the use of the video camera; and

Medium (2) Child:

(A) Is younger than five years old;

(B) Has primary medical needs; or

(C) Has a service plan that permits the use for purposes of reducing risks of sexually offensive behavior, physical aggression, or other behaviors identified as requiring heightened supervision, such as night terrors, sleepwalks, or resides in a bedroom with such a child. You must document the justification for the video camera in the child's service plan, and the child must have other accessible and reasonable locations where he may change his clothing in private.

Medium (c) Video cameras may not be used to tape the child, and images may not be accessible except to the foster home's caregivers.

§749.2597. Where must the caregivers reside in order to supervise children who are in a transitional living program?

January 2007

Caregivers counted in the child/caregiver ratio and responsible for supervising children in a transitional living program must:

Medium-High (1) Reside within close physical proximity of the child's living quarters;

Medium-High (2) Be physically available to the children at all times;

Medium-High (3) Be capable of responding quickly in an emergency; and

Medium-High (4) Be capable of monitoring the comings and goings of the children in the program.

§749.2599. Can a child serve as a caregiver?

September 2010

Medium-High A child who is 16 years old or older, including a foster child, may serve as a babysitter for children under the age of 13 as long as:

Medium-High (1) The child placement management staff approves the child to babysit, establishing limits with duration and frequency;

Medium-High (2) The child acts as a babysitter for no more than eight hours and never over night;

High (3) The child is certified in first aid and CPR; and

Medium-High (4) Neither the child babysitting nor any of the foster children in the babysitter's care is receiving treatment services.

Division 7, Respite Child-Care Services

§749.2621. What are respite child-care services?

January 2007

(no weight) (a) Respite child-care services are a planned alternative 24-hour care that has the purpose of providing relief to the child's primary caregiver.

(no weight) (b) For the purposes of this chapter, respite child-care placement is a placement that lasts more than 72 hours. The placement of a child in a home for less than 72 hours is not respite child-care.

§749.2623. What must occur before I place a child for respite child-care services?

January 2007

Medium-Low You must notify the child's parent before placing the child in respite child-care services.

§749.2625. What information regarding the child must I share with the babysitter, overnight care provider, and respite care provider?

December 2014

Medium-High Before a babysitter, overnight care provider or respite care provider may provide care to a child, you must share the following information with the provider to ensure continuity of care:

Medium-High (1) Specific needs of a child, including:

Medium-High (A) All psychological, psychiatric or medical treatment currently being provided;

Medium-High (B) Medication regimen and medication instructions;

Medium-High (C) Authorization for medical treatment;

Medium-High (D) Safety plans;

Medium-High (E) Sleeping information;

Medium-High (F) Discipline instructions;

Medium-High (G) Any expectations that the foster parent or agency may have of the provider; and

Medium-High (H) Any other needs of a child that should be addressed by the provider;

Medium-High (2) Non-routine events taking place in the life of the child, including any scheduled appointments such as family and sibling visits;

Medium (3) Emergency contact information, including the:

Medium-High (A) Child's physician(s);

Medium (B) Child's parent; and

Medium (C) Agency's telephone number; and

(continued)

High (4) The child's history that may affect the provider's ability to provide care for the child, including:

Medium-High (A) Background of abuse and/or neglect;

Medium-High (B) Physical aggression or sexual behavior problems;

Medium-High (C) Fire setting;

Medium-High (D) Maiming or killing animals;

Medium-High (E) Suicidal ideations and attempts; and

Medium-High (F) Run-away behaviors.

§749.2627. What must occur before one of my foster homes accepts a child for respite child-care service?

January 2007

Medium-High (a) You must approve each occurrence of respite child-care services in your homes. Respite child-care services must not be provided if it could be detrimental to the child.

Medium-High (b) Your child placement management staff must determine that the respite placement will not cause a conflict in care for any child that you have already placed in the foster home. The record of the foster home providing respite child-care services must include documentation of this determination.

§749.2629. In addition to the requirements of this division, what requirements of this chapter apply to respite child-care services that a foster home provides?

September 2010

Medium-High You and the foster home providing respite child-care must meet all requirements of the applicable rules of this chapter for all children in care, including children admitted for respite child-care services. This includes compliance with capacity and child/caregiver ratios and supervision rules. Children receiving respite care in a foster home are counted in the capacity and child/caregiver ratio for the home.

Helpful Information

Children in respite child-care must meet the verification restrictions of a foster home that provides the respite child-care. The child-placing agency and the foster home providing respite child-care must meet all requirements of the applicable minimum standards for all children in care, including children admitted for respite child-care services. This includes compliance with capacity, child/caregiver ratio, and supervision requirements. For example, if a foster home is verified for six children and has four children in the home, it can only accept two children for respite child-care.

§749.2631. How long may a child be in respite child-care services?

January 2007

Medium (a) With the exception of subsection (b) of this section, a child may be in respite child-care services for 14 consecutive days or 40 days each year.

Medium (b) A respite child-care placement that is made because a child's foster home is under investigation for abuse or neglect does not count toward nor is it limited by the time frames noted in subsection (a) of this section. However, these placements are limited to a maximum of 60 days.

Medium (c) If a child needs respite child-care services for more than 14 consecutive days or more than 60 days for an abuse or neglect investigation, this is considered a new placement and will not be respite child-care.

Medium-Low (d) When a child finishes a respite child-care placement, he may not return to respite child-care services for at least 10 days.

Medium-High (e) Respite child-care must not be used if it could be detrimental to the child.

Helpful Information

The time limit of 40 days per year of respite care for each child is intended to serve the best interests of the child by minimizing disruptions in care. To that end, and in an effort to comply with these minimum standard rules, you are expected to seek out information about a child's time spent in respite child-care at any previous placement(s) earlier in the year. You are responsible for limiting the child's placement(s) in respite child-care accordingly for the remainder of the year.

In addition, in an effort to comply with §749.2633, a child-placing agency which verifies a foster home previously verified by another agency is expected to obtain information about how much respite child-care the foster home has already provided that year and limit respite child-care in that home accordingly for the remainder of the year.

§749.2633. How frequently may a foster home provide respite child-care services?

January 2007

Medium-Low (a) The home may not provide respite child-care services for more than:

(1) 14 consecutive days; or

(2) 60 days annually.

Medium (b) A respite child-care placement that is made because a child's foster home is under investigation for abuse or neglect does not count toward nor is it limited by the time frames noted in subsection (a) of this section. However, these placements are limited to a maximum of 60 days.

(no weight) (c) This rule does not apply to foster homes that exclusively provide respite child-care services.

§749.2635. May I place a child for babysitting, overnight care, or respite care in a home that Licensing does not regulate?

December 2014

Medium — Yes, you may place a child in a home that Licensing does not regulate for babysitting, overnight care, or respite care, if the provider:

Medium — (1) Is not subject to regulation by Licensing; and

Medium — (2) Meets the policy requirements your agency developed according to §749.353 of this title (relating to What policies must I develop for babysitters, overnight care providers, and respite care providers?).

Division 8, Agency – Foster Family Relationships

§749.2651. May a foster home accept adults into the home for care?

January 2007

Medium — (a) Foster homes may accept adults into the home for care if the adult:

(1) Is related to the foster family;

(2) Is a client in the Department of Aging and Disability Services, Community Based Services Program; or

(3) Meets one of the requirements of §749.1105 of this title (relating to May I admit a young adult into your care?).

Medium-High — (b) Adults in care must be counted in the capacity of the home.

§749.2653. What are the requirements for an unrelated adult to reside in a foster home?

January 2007

(a) Before a foster home may add a new member to the household:

Medium-High — (1) The home must notify you of the potential new member of the household;

High — (2) The home must comply with requirements specified in Subchapter F of Chapter 745 of this title (relating to Background Checks) and §749.1417 of this title (relating to Who must have a tuberculosis (TB) examination?); and

Medium-High — (3) You must evaluate the effect that the adult will have on the foster children in the home. Your evaluation must include the following considerations:

Medium-High — (A) The needs of the foster children in care;

Medium-High — (B) The impact the adult will have in the foster family and for the foster children; and

Medium-High — (C) Whether the change in household will conflict with the children's best interest.

(continued)

(b) You must document the following in the foster home record:

Medium-High (1) The results of the background check and the tuberculosis screening;

Medium-Low (2) Your evaluation; and

Medium-Low (3) The approval of the child placement management staff.

§749.2655. When must a foster home notify you of changes that affect the foster home?

January 2007

A foster home must notify you of any of the following changes as follows:

	Change:	**Time for notification:**
High	(1) In the location of the foster home.	Before moving.
	(2) Major life changes in household composition:	Before the change occurs, if possible; otherwise, immediately upon discovery.
Medium-High	(A) Marriage, divorce, separation, death, birth, or any other change in household composition;	
Medium-High	(B) A serious health problem that affects the ability of the foster parent to care for children; or	
Medium-High	(C) Extended absences by one parent, such as military services or job assignments.	
Medium-High	(3) A change affecting a condition of the verification.	Before the change occurs, if possible; otherwise, immediately upon discovery.

Subchapter N, Foster Homes: Management and Evaluation

§749.2801. When must I evaluate a foster home for compliance with Licensing rules?

December 2014

(a) You must evaluate a foster home for compliance with the relevant Licensing rules affecting the need for the evaluation, whenever:

Medium-High (1) You receive an allegation of deficiency;

Medium-High (2) There is a major life change in the foster family;

Medium-High (3) A change occurs that affects the conditions of the verification; or

Medium-High (4) You receive a family violence report from DFPS.

Medium-High (b) You must evaluate a foster home for compliance with all rules that apply to that home:

(1) Every two years;

(2) When you plan to extend a foster home's time-limited verification; and

(3) When you plan to change a foster home's verification from time-limited to non-expiring.

Helpful Information

Regarding subsection (b)(1), you are not required to issue a new verification certificate every two years. You are only required to document in the foster home's record that you have evaluated the foster home for compliance with all applicable minimum standards within the two-year time frame. Your schedule for this evaluation may vary. Some child-placing agencies choose to conduct a large, comprehensive evaluation less often. Other child-placing agencies choose to evaluate a small portion of the minimum standards during each foster home visit.

§749.2803. What changes affect the conditions of a foster home's verification?

December 2010

(no weight) (a) Changes that affect the conditions of a foster home's verification include a change in the:

(1) Name of the foster home;

(2) Foster home's address and/or location;

(3) Foster home's capacity, as determined by the capacity requirements in §749.2557 of this title (relating to May a foster agency home exceed its verified capacity?);

(4) Ages and gender(s) of children for which the home is authorized to provide care;

(5) The types of services the foster home will provide; or

(6) The composition of the family or home.

Medium-Low (b) A verification certificate is only valid until:

(1) The occurrence of any changes that affect the conditions of a foster home's verification, including the home's address and/or location; or

(2) The foster home's time-limited verification expires.

Medium-Low (c) You must issue a new or temporary verification certificate to a foster home prior to:

(1) Changing any conditions of the home's verification, including the home's address or location;

(2) Extending the expiration date of the home's time-limited verification; or

(3) Changing a foster home's verification from time-limited to non-expiring.

§749.2805. What is a "major life change in the foster family"?

January 2007

(no weight) A major life change in the foster family includes:

(1) Marriage, divorce, separation, death, birth, or any other change in household composition;

(2) A serious health problem that affects the ability of the foster parent to care for children; or

(3) Extended absences by one parent, such as military service or out-of-town job assignments.

§749.2807. How do I evaluate a foster home's compliance with the relevant Licensing rules affecting the need for the evaluation?

September 2010

Medium-High You are responsible for the home's ongoing compliance with our rules. You must evaluate the home as follows:

Medium-High (1) When there is an allegation of a deficiency, you must evaluate the rule and any rules related to the deficiency;

Medium (2) When a change in the conditions of the verification or a major life change occurs, you must evaluate the rules related to the conditions or change;

Medium (3) When an unplanned change in housing or employment occurs, you must evaluate the rules related to the change;

Medium (4) You must document the rules that were evaluated and the determination of the evaluation;

Medium (5) During any contact with the foster family, including routine supervisory contacts and investigations, you must cite and address any deficiencies noted;

Medium (6) Your documentation of deficiencies must include plans for achieving compliance; and

Medium (7) You must also document a plan for follow-up to ensure compliance was achieved.

§749.2809. What must a plan for achieving compliance include?

January 2007

The plan for achieving compliance must include:

Medium (1) Specific actions or changes needed for the foster home to achieve compliance;

Medium (2) Time frames for corrections and consequences for failure to achieve compliance;

Medium (3) A determination of whether children can remain in the foster home before the home achieves compliance; and

Medium (4) A determination whether you will make new placements in the home before the home achieves compliance.

§749.2811. How do I follow-up to ensure compliance?

January 2007

You must:

Medium (1) Re-inspect the foster home or receive documentation from the home showing that all deficiencies have been corrected; and

Medium-Low (2) Document that the foster home has corrected all deficiencies in the foster home's record.

§749.2813. How do I evaluate Licensing rules for each home every two years?

January 2007

(no weight) You may either:

(1) Perform a rule-by-rule evaluation of the home once every two years; or

(2) Evaluate different parts of the rules at different times during the two-year period.

§749.2814. How do I evaluate a foster home prior to extending its time-limited verification or changing its verification from time-limited to non-expiring?

Subchapter N, Foster Homes: Management and Evaluation
December 2010

Medium-High You must evaluate the foster home for compliance with each applicable rule of this chapter prior to extending the foster home's time-limited verification or changing the foster home's verification from time-limited to non-expiring.

§749.2815. How often must I have supervisory visits with the foster home and what must be evaluated during a supervisory visit?

September 2014

(a) You must have supervisory visits:

Medium-High (1) In the foster home at least quarterly;

Medium-High (2) With both foster parents, if applicable, at least once every six months; and

Medium-High (3) With all household members at least once every year.

Medium-High (b) At least two supervisory visits per year must be unannounced.

Medium (c) At least once every quarter your supervisory visit must evaluate and document the following:

Medium (1) Any change to household members, frequent visitors, or persons who will provide support as a caregiver during an unexpected event or crisis situation;

Medium (2) Any major life change in the foster family as described in §749.2805 of this title (relating to What is a “major life change in the foster family”?);

Medium (3) Any change to the foster home disaster and emergency plans as described in §749.2907 of this title (relating to What disaster and emergency plans much each foster home have?); and

Medium (4) Any challenging behaviors of the current children in the home, the level of stress the foster family is currently experiencing, and any methods for responding to each child’s challenging behavior and/or alleviating any significant stress the foster family is experiencing.

(continued)

Medium (d) You must document each visit in the home's record. The documentation must include specific issues identified and any rules evaluated, results of the evaluation, deficiencies found, plans for achieving compliance, plans for follow-up to ensure compliance was achieved, and any changes to the information in the foster home screening since the last supervisory visit, including the reasons for any change in the home's verification.

Medium (e) For each supervisory visit, documentation of the visit must be signed by each foster parent present for the visit and the child placement staff conducting the visit.

§749.2817. Must I monitor and have supervisory visits with a foster home where no children are placed?

January 2007

Medium (a) You must maintain all monitoring and supervisory requirements if the home is available for placements.

(no weight) (b) If you place the home on inactive status, you do not have to monitor the home or have supervisory visits.

§749.2819. When may I place a foster home on inactive status?

December 2010

(no weight) (a) You may place a foster home on inactive status if:

(1) There are no foster children in the home;

(2) You and the foster parents agree that the home will be on inactive status;

(3) You document in the home's record that the home is on inactive status and will not accept a child for placement; and

(4) For a foster home with a time-limited verification, the home's verification has not expired.

Medium (b) You may not place a home that you should close on inactive status. A home that you should close includes a home:

High (1) Whose repeated noncompliance with rules endangers the health or safety of children;

High (2) That repeatedly fails to comply with agency policies or corrective action plans;

High (3) That refuses to comply with the rules of this chapter or agency policies; or

High (4) That refuses to allow you or our staff to inspect the home.

Medium-Low (c) When you place a home on inactive status or remove a home from inactive status, you must inform us by submitting an agency home report form.

§749.2821. How do the foster parents meet their training requirements while their home is on inactive status?

January 2007

(no weight) (a) Foster parents may prorate their annual training requirement for the period of time that the home was on inactive status.

Medium (b) If the home remains on inactive status for more than a year, the foster parents must complete at least eight hours of pre-service retraining before you may place children in the home.

§749.2823. Are background checks required on homes that are on inactive status?

January 2007

High Background checks are not required for homes that are on inactive status. If the home is taken off of inactive status and it has been more than two years since the last background check for any person(s) at the home for whom a check is required, the background check(s) must be requested before a child or children can be placed in the home.

§749.2825. How do I take a foster home off inactive status?

January 2007

When the home is ready to become active and accept children, you must:

Medium-High (1) Make a supervisory contact in the home prior to placing a child in the home;

Medium-High (2) Document that the home is complying with all applicable rules of this chapter; and

High (3) Ensure that the home is in compliance with all background check requirements.

Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment

Division 1, Health and Safety

§749.2901. What health and safety regulations must each foster home meet in addition to Licensing rules?

January 2007

Medium-High All agency homes must comply with all applicable fire, health, and safety laws, ordinances, and regulations.

§749.2902. What health safety measures are required at a foster home?

September 2010

High (a) For each foster home, you must attempt to obtain a health inspection from the local health authority. If you cannot obtain a health inspection by a local authority, you must document all attempts to obtain an inspection with the date, name of person contacted, and the person's response to the request to complete an inspection.

High (b) For each foster home that does not have a health inspection from the local health authority, you must evaluate the foster home's health safety using our Environmental Health Checklist form.

Medium (c) Each inspection or evaluation must be documented, including the name and telephone number of the person who conducted the inspection or evaluation.

High (d) Deficiencies documented during any inspection or evaluation must be corrected, and the foster home must comply with any conditions or restrictions specified by the inspector or evaluator.

Medium (e) Once you document that a health inspection is not available in a particular area, you may use that documentation for any foster home verified by you in that area. A copy of the documentation must be on file in each foster home record to which the documentation applies.

Medium (f) Documentation that a health inspection is not available in a particular area is valid for one year.

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

September 2010

High (a) Foster family homes not serving children receiving treatment services for primary medical needs must have either:

(1) A fire inspection conducted by a certified fire inspector or a local or state fire authority; or

(2) A fire safety evaluation conducted by your child placement staff using the State Fire Marshal's fire prevention checklist for foster homes.

Medium (b) Each fire inspection or fire safety evaluation must be documented, including the name and telephone number of the person who conducted the inspection or evaluation.

High (c) Deficiencies documented during any inspection or evaluation must be corrected, and the foster home must comply with any conditions or restrictions specified by inspector or evaluator.

(continued)

Helpful Information

Child placement staff conducting a fire safety evaluation must document the foster home's deficiencies according to the State Fire Marshal's fire prevention checklist for foster homes. After documenting all deficiencies, the child placement staff must review the deficiencies with the foster home, give the foster parent(s) a deadline for correcting each deficiency, and set any conditions or restrictions necessary to ensure child safety until deficiencies have been corrected. These expectations are consistent with §749.2807 through §749.2811.

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

September 2010

High (a) Foster family homes serving children receiving treatment services for primary medical needs and foster group homes must have a fire inspection conducted by a certified fire inspector or a local or state fire authority. You must document efforts to obtain a fire inspection. If, after exploring and documenting efforts to obtain a fire inspection for a home, you cannot obtain a fire inspection, then a fire safety evaluation may be conducted by your child-placement staff using the State Fire Marshal's fire prevention checklist for foster homes. Documentation of efforts to obtain a fire inspection must include each date, the name of the person contacted, and the person's response to the request to complete an inspection.

Medium (b) Each inspection or use of the State Fire Marshal's checklist must be documented, including the name and telephone number of the person who conducted the inspection or evaluation.

High (c) Deficiencies documented during any inspection or use of the State Fire Marshal's checklist must be corrected, and the foster home must comply with any conditions or restrictions specified by the inspector or child-placement staff.

Medium (d) Once you document that a fire inspection is not available in a particular area, you may use that documentation for any foster home verified by you in that area. A copy of the documentation must be on file in each foster home record to which the documentation applies.

Medium (e) Documentation that a fire inspection is not available in a particular area is valid for one year.

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

September 2010

(a) Unless otherwise stated in the report, a fire or health inspection report obtained from a fire or health authority, including a certified fire inspector, is current for:

Medium-High (1) One year for a foster group home; and

Medium-High (2) Two years for a foster family home.

Medium-High (b) If you use a checklist for a foster home's fire or health inspection, the checklist is current for one year.

§749.2907. What disaster and emergency plans must each foster home have?

June 2014

Medium-High (a) Each foster home must have written plans and procedures for handling potential disasters and emergencies, such as fire, severe weather emergencies, and transportation emergencies. Each plan must include:

Medium-High (1) Procedures for relocating children to a designated safe area or alternate shelter including specific procedures for evacuating children who are under 24 months of age, who have limited mobility, or who otherwise may need assistance in an emergency, such as children who have mental, visual, or hearing impairment, or a medical condition that requires assistance; and

Medium-High (2) How you will ensure medications and equipment will be made available to children with special needs or medical conditions.

Medium-High (b) Foster parents and caregivers must know the procedures for meeting disasters and emergencies, including evacuation procedures, supervision of the children, and contacting emergency help.

§749.2908. How must a foster home practice disaster and emergency plans?

December 2014

Medium-High (a) A foster home must practice disaster and emergency plans each year by:

Medium-High (1) Discussing the plans and procedures for handling a fire and weather emergency with the children in care;

Medium-High (2) Conducting a fire drill, so children are able to safely exit the foster home within three minutes; and

Medium-High (3) Conducting a severe weather drill.

Medium (b) The foster home must document the discussions and the drills, including the date and time of each.

Medium (c) For foster homes treating children with primary medical needs, a substitute (such as a large body pillow) should be used for each child with primary medical needs if the drill would endanger or overstimulate the child.

§749.2909. How many smoke detectors must a foster home have?

January 2007

(a) Each home must have a working smoke detector in the following areas:

Medium-High (1) In hallways or open areas outside sleeping rooms; and

Medium-High (2) On each level of a home with multiple levels.

Medium-High (b) Depending on the size and layout of the home, additional smoke detectors may be required based on manufacturer's or fire inspector's instructions.

§749.2911. How must smoke detectors be installed and maintained at a foster home?

January 2007

Medium-High Smoke detectors must be installed and maintained according to the manufacturer's instructions, or in compliance with the state or local fire inspector's instructions.

§749.2913. How many fire extinguishers must a foster home have?

September 2010

(a) A foster home must have a fire extinguisher:

Medium-High (1) In each kitchen; and

Medium-High (2) On each level of the home.

(b) The fire extinguisher(s) must be:

Medium-High (1) Serviced or replaced after each use; and

Medium-High (2) Checked for proper weight at least once a year.

Best Practice Suggestion

It is a good idea to mount fire extinguishers on the wall by a hanger or bracket, with the top of the extinguisher no higher than five feet above the floor and the bottom at least four inches above the floor or any other surface. If a state or local fire inspector has different mounting instructions, follow those instructions.

§749.2915. Where must a foster home store dangerous tools and equipment?

September 2010

Medium-High A foster home must store dangerous tools and equipment, such as hatchets, saws, and axes, so they are inaccessible to children. Children may use these tools and equipment, with caregiver supervision as needed based on the child's age, maturity, and treatment issues.

§749.2917. What are the requirements for animals that are present at a foster home?

September 2010

Medium-High Any animals on the premises of a home must be kept free of disease. Animals must be vaccinated and treated as recommended by a licensed veterinarian. The caregivers must have documentation at the home showing that dogs, cats, and ferrets have been vaccinated as required by Texas Health and Safety Code, Chapter 826. If the foster home chooses to have animals on the premises, it must ensure that the animals do not create health problems or a health risk for children.

Division 2, Tobacco Use

§749.2931. What policies must I enforce regarding tobacco products?

January 2007

Medium-High (a) A child may not use or possess tobacco products.

Medium-High (b) Caregivers and other adults may only smoke tobacco products outside.

Medium-High (c) No one may smoke tobacco products in a motor vehicle while transporting children in care.

Division 3, Weapons, Firearms, Explosive Materials, and Projectiles

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

September 2010

(a) Generally, weapons, firearms, explosive materials, and projectiles (such as darts or arrows), are permitted, however, there are some specific restrictions:

High (1) If you allow weapons, firearms, explosive materials, projectiles, or toys that explode or shoot, you must develop and enforce a policy identifying specific precautions to ensure children do not have unsupervised access to them, including:

High (A) Locked storage for the weapons and the ammunition;

High (B) Locked storage must be made of strong, unbreakable material;

High (C) If the locked storage has a glass or another breakable front or enclosure, guns must be secured with a locked cable or chain placed through the trigger guards; and

High (D) Separate locked storage for the weapons and the ammunition. Ammunition may be stored with weapons in the same location, such as a gun cabinet, provided that access to both ammunition and weapons cannot be obtained by using the same key and/or combination;

High (2) You must determine that it is appropriate for a specific child to use the weapons, firearms, explosive materials, projectiles, or toys that explode or shoot; and

High (3) No child may use a weapon, firearm, explosive material, projectile, or toy that explodes or shoots, unless the child is directly supervised by a qualified adult.

High (b) Your policies must require foster parents/caregivers to notify you if there is a change in the type of or an addition to weapons, firearms, explosive materials, or projectiles that are on the property where the foster home is located.

(no weight) (c) Firearms which are inoperable and solely ornamental are exempt from the storage requirements in this rule.

§749.2963. What factors must I consider when determining whether weapons, firearms, explosive materials, or projectiles are stored adequately?

January 2007

High When determining if these items are stored adequately, you must consider the age, history, emotional maturity, and background of the children in the home.

§749.2965. How must I determine whether weapons, firearms, explosive materials, or projectiles are present in a foster home?

January 2007

High (a) When you complete a foster home screening, you must ask whether weapons, firearms, explosive materials, or projectiles are present in the home. If these items are present, you must review your policies and requirements with the prospective foster parents.

(b) The foster home record must include documentation on the:

Medium-High (1) Items present in the home; and

Medium-High (2) Specific precautions the caregivers must take to ensure that children do not have unsupervised access.

High (c) The two-year evaluation of compliance with rules of this chapter must include a discussion of whether the home has weapons, firearms, explosive materials, or projectiles, and if so, how these items are stored.

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

March 1, 2012

(a) A caregiver may transport a child in a vehicle where firearms (other than handguns), other weapons, explosive materials, or projectiles are present if:

High (1) All firearms are not loaded;

High (2) The firearms, other weapons, explosive materials, or projectiles are inaccessible to the child; and

High (3) Possession of the firearm is legal.

(b) A caregiver may transport a child in a vehicle where a handgun is present if:

High (1) The handgun is in the possession and control of the caregiver; and

High (2) The caregiver is licensed to carry the handgun under Subchapter H, Chapter 411, of the Government Code.

Division 4, Space and Equipment

§749.3021. How much space must bedrooms used by foster children have?

January 2007

Medium (a) A bedroom must have at least 40 square feet of space for each occupant and no more than four occupants per bedroom are permitted, even if the square footage of the room would accommodate more than four occupants. The four occupants restriction does not apply to children receiving treatment services for primary medical needs.

Medium (b) Single occupant bedrooms must have at least 80 square feet of floor space.

Medium-Low (c) The floor space requirement must not include closets or other alcoves.

Medium (d) Floor space must be space that children can use for daily activities.

(no weight) (e) If a foster home was verified before January 2007, then a foster home is exempt from the maximum bedroom occupancy requirement until:

(1) The foster family moves to a new home;

(2) The foster home is structurally altered by adding a new room; or

(3) The foster home's verification is no longer valid.

§749.3023. Which rooms in the home may not be used as bedrooms?

September 2010

Medium (a) Only a room that provides adequate opportunities for rest and privacy may be used as a bedroom.

Medium-Low (b) Bedrooms used by foster children must have at least one source of natural lighting.

(c) Foster children or any other household members may not use any of the following as a bedroom:

Medium-Low (1) A room commonly used for other purposes, including dining rooms, living rooms, hallways, or porches;

Medium-Low (2) A passageway to other rooms; or

Medium-Low (3) A room that does not have doors for privacy.

(d) A foster child may use a detached structure as a bedroom if:

Medium-High (1) The child is 16 years old or older;

Medium-High (2) The service planning team approves; and

High (3) The detached structure is included in required fire and health inspections for the foster home.

Medium-High (e) A foster child may use a basement as a bedroom if there is a second fire escape route from the basement.

(continued)

Medium-Low (f) A foster child may not use a room, including a basement or detached structure, as a bedroom if there is no natural lighting:

(1) Unless you verified the home prior to January 2007; and

(2) Until the verification is no longer valid, or the home is structurally altered through the addition of a new room.

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

September 2010

Medium-High (a) Before an adult in care can share a bedroom with a minor resident, you must assess the behaviors, maturity level, and relationships of each resident to determine whether there are risks to either the minor or adult in care.

Medium (b) You must document and date your assessment in the child's record.

High (c) Children may not sleep in the same bed with an adult unless the adult is the child's parent and the child is between the ages of one year and 10 years old.

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

September 2010

(a) A child may share a bedroom with an adult caregiver if:

Medium (1) In the best interest of the child;

Medium (2) The child is under three years old and sleeps in the bedroom of the caregiver; and

Medium (3) Approval is documented and dated in the child's service plan by the service planning team.

Medium (b) An exception for a child to share a bedroom with an adult caregiver may be made during specific travel and camping situations if no other more reasonable provision is available to the child and other requirements are met.

High (c) Children may not sleep in the same bed with an adult caregiver at any time.

Medium-Low (d) To facilitate continuous supervision of a child, the caregiver may move a child to a location where the caregiver can directly and continuously supervise a child until there is no longer an immediate danger to himself or others. However, the caregiver must provide comfortable sleeping arrangements for the child.

§749.3029. Can children of opposite sex share a bedroom?

September 2010

Medium-High Foster children six years old or older must not share a bedroom with a person of the opposite sex, except for:

(1) A child sharing a bedroom with his minor parent; or

(2) Non-ambulatory children receiving treatment services for primary medical needs.

§749.3031. What are the requirements for beds and bedding?

September 2010

Medium-High (a) Each foster child shall have his own bed and mattress. This does not prevent a child receiving respite care or requiring closer supervision from sleeping on a couch, sleeping bag, etc. for fewer than seven days.

Medium (b) Beds must be clean and comfortable.

Medium (c) Mattresses must have covers or protectors.

Medium (d) Linens must be changed when soiled, and not less often than once a week.

Helpful Information

Mattress covers are not required to be plastic. Mattress covers are intended to provide an additional layer of protection between the child and the mattress, which may help prevent contamination of the mattress by a child's bodily fluids or spread of germs from the mattress to the child (since multiple children may use the same mattress over the course of time). Regular washing of mattress covers may also be helpful to children who are allergic to dust mites.

§749.3033. What type of personal storage space must a foster child have?

January 2007

Low Each child must have accessible storage space for his clothing and personal possessions.

§749.3035. What bathroom accommodations must a home have?

January 2007

Medium-Low (a) A foster home must have one lavatory, one tub or shower, and one toilet for every eight household members. A foster home verified before January 2007, is exempt from this requirement until it is no longer verified by the agency under which it is currently verified, or it makes structural changes to the home by adding additional bathrooms.

Medium-Low (b) All lavatories, tubs, and showers must have hot and cold running water.

Medium (c) For foster homes that care for primary medical needs children, the child's bedroom and the child's bathroom must be located on the same floor. A foster home verified before January 2007, is exempt from this requirement until it is no longer verified by the agency.

Medium-High (d) Bathrooms must allow for privacy.

§749.3037. What are the requirements for indoor space that children can use?

January 2007

Medium-Low (a) Children must have indoor areas for their use. There must be at least 40 square feet for each child. This does not include bedrooms, kitchens, bathrooms, utility rooms, unfinished attics, or hallways.

Low (b) A foster home must identify indoor areas that children can use.

Medium-Low (c) You must approve the indoor space that a home designates for the children's use.

§749.3039. What are the requirements for outdoor recreation space and equipment?

September 2010

Medium-High (a) Equipment must not have openings, angles, or protrusions that can entangle a child's clothing or entrap a child's body or body parts.

Medium-High (b) Equipment must be securely anchored according to manufacturer's specifications to prevent collapsing, tipping, sliding, moving, or overturning.

Medium-High (c) Climbing equipment, swings, and slides must not be installed over asphalt or concrete.

Medium-High (d) Equipment must be appropriate, cleaned, maintained, and repaired.

Medium-High (e) Trampolines may only be used at the foster home if:

Medium-High (1) Only one child is on the trampoline at a time;

Medium-High (2) Somersaults are not allowed on the trampoline;

Medium-High (3) Shock-absorbing pads cover the springs, hooks, and frame;

Medium-High (4) No ladder is used with the trampoline; and

(5) A caregiver provides supervision as follows:

Medium-High (A) For children under 15 years old, the caregiver must be immediately present, watching the child(ren) at all times, enforcing safety rules, and able to respond in an emergency; and

Medium-High (B) For children 15 years old and older, the caregiver must be on the premises, visually check on the child(ren) at frequent intervals, and able to respond in an emergency.

§749.3041. What are the requirements for a foster home's physical environment?

September 2010

The foster home must ensure that:

Medium-High (1) The home is safe for children, kept clean, and in good repair;

Medium-High (2) Equipment and furniture are safe for children, kept clean, and in good repair;

Medium-High (3) Exits in living areas are not blocked by furniture.

Medium-High (4) The outdoor areas are safe for children, kept clean, and in good repair;

Medium-High (5) Outdoor areas are well drained;

Medium-High (6) Windows and doors used for ventilation are screened;

Medium-High (7) Flammable or poisonous substances are stored out of the reach of children unless caregivers have evaluated a child as capable and likely to use such items responsibly; and

High (8) The home is free of rodents and insects.

Helpful Information

Repair work that is scheduled or in progress may be considered as compliance with the requirements in this rule, as long as any risk to children has been adequately addressed. Related to subsection (8), this includes reasonable and timely efforts to control insects, such as regularly scheduled exterminator visits.

Division 5, Nutrition and Food Preparation

§749.3061. What are the requirements for feeding children in care?

January 2007

Medium-High (a) Caregivers must give children food of adequate quality and in sufficient quantity to supply the nutrients necessary for proper growth and development.

Medium-High (b) Caregivers must feed an infant whenever the infant is hungry.

Medium-High (c) Caregivers must provide a toddler or school age child with three meals and at least one snack a day.

Medium-High (d) No more than 14 hours may pass between the last meal or snack of the day and the availability of the first meal the following day.

Best Practice Suggestion

Best practice suggests that toddlers and pre-school children should not go more than three hours without a meal or snack being offered, unless the child is sleeping or unless otherwise justified in writing by the child's health-care professional. Likewise, school-age children should not go more than six hours without a meal or snack being offered, unless the child is sleeping or unless otherwise justified in writing by the child's health-care professional.

§749.3063. What types of food and water must caregivers provide children?

January 2007

(a) Caregivers must provide a child with food that is:

Medium-High (1) Of adequate variety, quality, and in sufficient quantity to supply the nutrients needed for proper growth and development according to the United States Department of Agriculture guidelines; and

Medium-High (2) Appropriate for the child's age and activity level.

Medium-High (b) Caregivers must not serve a child nutrient concentrates and supplements, such as protein powders, liquid protein, vitamins, minerals, and other nonfood substances in lieu of food to meet the child's daily nutritional need, except with written instructions from a licensed health-care professional.

Medium-High (c) Caregivers must ensure drinking water is always available to each child and is served in a safe and sanitary manner. Children must be well hydrated and must be encouraged to drink water during physical activity and in warm weather.

Best Practice Suggestion

Children's Nutrition

Research suggests the following:

- *Milk and milk products served to children 12 months old or older should be Grade A pasteurized or from sources approved by the Department of State Health Services.*

  The following milks do not contain the right amounts of all the nutrients infants need and can harm an infant's health. Iron-fortified infant formula is the best substitute for breast milk. Infants should not be given the following unless recommended by the infant's health-care professional:

  - *Cow's milk;*
  - *Evaporated cow's milk or home-prepared evaporated cow's milk formula;*
  - *Sweetened condensed milk;*
  - *Goat's milk;*
  - *Soy milk; or*
  - *Imitation milks, including those made from rice or nuts (such as almonds) or nondairy creamer.*
- *Milk should be fluid milk.*
- *Breads and grains should be made from whole-grain or enriched meal or flour.*
- *Cereal should be whole grain or enriched or fortified.*
- *Vegetable or fruit juices should be 100% vegetable or fruit juice when used to meet a serving from the vegetable or fruit group.*
- *Children under one year old should not be offered unpasteurized or raw honey because it may contain spores that pose a health risk.*

(continued)

Best Practice Suggestion (continued)

Food Allergies

A food allergy is caused by the body's immune system reacting inappropriately to a food or food additive. Symptoms may include wheezing, difficulty breathing, diarrhea, rashes, itching, hives, and headaches. Food allergies are most common in infants, due to their immature digestive systems. Food allergies are usually outgrown during the preschool years. Although any food may cause an allergic reaction, six foods are responsible for most of these reactions in children. These foods are:

- *Peanuts;*
- *Eggs;*
- *Milk;*
- *Tree nuts;*
- *Soy; and*
- *Wheat.*

A child who is pregnant or breastfeeding should avoid consuming peanuts and peanut products due to its association with the development of peanut allergies in infants. It is best not to offer children under two to three years old peanuts or peanut products, such as peanut butter and foods containing or cooked in peanut oil, because of the potential of developing this life-threatening and often life-long allergy. Foods that cause allergic reactions should be eliminated from the diet. However, it is important that the diet still contain a variety of foods for healthy growth and development. A child should receive a medical evaluation if food allergies are suspected.

Food Intolerance

A food intolerance is an adverse food-induced reaction that does not involve the body's immune system. Lactose intolerance is one example of food intolerance. A person with lactose intolerance lacks an enzyme needed to digest milk sugar. When that person eats milk products, gas, bloating, and abdominal pain may occur. It is best to provide food substitutions for children with food intolerances who cannot consume the regular meal.

Choking

Research has shown that 90% of fatal choking occurs in children younger than four years old. Examples of foods that present a risk of choking include hot dogs sliced into rounds, whole grapes, hard candy, nuts, seeds, raw peas, dried fruit, pretzels, chips, peanuts, popcorn, marshmallows, spoonfuls of peanut butter, and chunks of meat larger than can be swallowed whole.

§749.3065. What must the caregiver do if a child refuses to or cannot eat a meal or snack that is offered?

January 2007

Medium-High (a) The caregiver must offer a child a meal or snack according to this division, but the caregiver may not force the child to eat. The caregiver does not have to offer other food to a child who:

(1) Refuses a meal or snack; or

(2) Chooses not to be present when a meal or snack is scheduled.

Medium (b) The caregiver must discuss recurring eating problems with child placement staff and the child's parent.

Medium-High (c) If a meal or snack is not appropriate to meet a child's individual needs, for example food allergies or religious reasons, then you must offer the child an appropriate nutritional substitute.

§749.3067. May a caregiver use food as a reward or punishment or as part of any behavior management program?

January 2007

Medium-High A caregiver may not use food that meets a child's nutritional requirements as a reward or punishment or as part of a behavior management program. Food cannot be withheld.

§749.3069. May caregivers offer a child in care different food choices than what the family is eating?

January 2007

Medium (a) A caregiver must offer a child in care the same food choices that other children in the home are offered, unless medically contraindicated for the child.

Medium (b) A caregiver must offer a child in care food choices that are at least comparable to what the adults in the home are eating, unless medically contraindicated for the child.

§749.3071. What must I do if a child requires a therapeutic or special diet?

January 2007

Medium-High (a) For a caregiver to serve a therapeutic or special diet to a child, you must have written approval in the child's record from a licensed physician or a registered or licensed dietician. This approval must be in the child's record.

Medium-High (b) If a child requires a therapeutic or special diet, you must give information regarding the diet to the child's caregivers.

Medium-High (c) Caregivers must make dietary alternatives available to a child who has special health needs as instructed by a licensed health-care professional.

§749.3073. What are the nutrition requirements for a child with primary medical needs?

January 2007

Medium-High (a) Caregivers must feed a child with primary medical needs according to his medical and developmental needs.

Medium-High (b) A licensed physician must prescribe tube feeding. A dietician or physician must plan the diet that the physician prescribes.

Medium-High (c) Children must eat in an upright position unless the service planning team's recommendations are to the contrary.

§749.3075. What food service practices must caregivers use for children receiving treatment services for primary medical needs or mental retardation?

January 2007

Medium (a) Food service practices for children receiving treatment services for primary medical needs or mental retardation, including non-mobile children, must encourage self-help and development.

Medium-Low (b) A toddler or older child must eat or be fed in the dining area, unless the service planning team's recommendations are to the contrary.

Medium-High (c) Infants must be held during feedings, unless the service planning team's recommendations are to the contrary.

§749.3077. What are the requirements for tube-feeding formula?

January 2007

Medium-High (a) A registered or licensed dietician, physician, or a registered nurse must ensure and document that the caregiver that prepares formula is adequately trained and has demonstrated competency in preparing the formula.

Medium-High (b) Tube-feeding formulas must supply the recommended dietary allowance for each child.

High (c) Caregivers must prepare and store the formula:

(1) According to directions; or

(2) As prescribed by a health-care professional.

§749.3079. What are the requirements for storing food?

September 2010

All food items must be:

Medium-High (1) Covered and stored off the floor;

Medium-High (2) Stored on clean surfaces;

Medium-High (3) Protected from contamination;

Medium-High (4) Stored in a container that is protected from insects and rodents;

Medium-High (5) Refrigerated immediately after use and after meals, if the food requires refrigeration; and

Medium-High (6) Covered when stored in the refrigerator.

§749.3081. How must kitchen, dining areas, supplies, and equipment be maintained?

January 2007

Medium-High (a) Caregivers must keep furniture, equipment, food contact surfaces, and other areas where food is prepared, eaten, or stored clean and well repaired.

Medium (b) Utensils and containers intended for one-time use, such as paper and plastic dishes, must not be used more than once.

Division 6, Transportation

§749.3101. What are the requirements for the vehicles used to transport foster children?

January 2007

Vehicles used to transport foster children must be:

Medium-High (1) Maintained in safe operating conditions at all times; and

Medium-Low (2) Inspected and registered according to federal, state, and local laws.

§749.3103. What are the requirements for transporting foster children?

January 2007

Medium-High The driver and all passengers must follow all federal, state, and local laws when driving, including laws on the use of child passenger safety systems, seat belts, and liability insurance.

Helpful Information

The Texas Transportation Code prohibits allowing a child under five years old to ride on a motorcycle, unless seated in a sidecar.

Below is a chart from the web site of the Texas Department of Public Safety regarding child restraints.

Texas Department of Public Safety Proper Child Restraint Recommendations

Conditions	Infants		Toddlers	Other Children
Weight and Age	Birth to at least 1 year old AND at least 20 pounds	Birth to at least 1 year old More than 20 pounds and less than 35 pounds	More than 1 year old, more than 20 pounds, up to approximately 40 pounds	More than 40 pounds, ages 4-8 unless 4'9" tall
Type of Seat	Infant only or rear-facing convertible	Rear-facing convertible designed for heavier infants	Convertible or forward-facing seat with harness	Belt-positioning booster (high-back or no-back)
Belt-positioning booster (high-back or no-back)	Rear-facing only		Forward-facing	Forward-facing
Forward-facing	Harness straps are at, or below, shoulder level.		Harness straps should be at or above shoulder level-check manual.	Belt-positioning booster seats are used with lap\shoulder belt combination only.
Remember	Do not place infants in the front seat of vehicles with active air bags.		5-point harnesses provide the best protection	Make sure the lap belt portion fits low and tight to avoid abdominal injuries.

Children 12 and under are safest when properly restrained in the rear seat. Keep children rear-facing as long as possible. Always refer to the child safety seat instructions and vehicle manufacturer's instructions for weight and height limits, proper use and installation.

§749.3105. May children transport other foster children?

January 2007

Other children in the foster home may transport a foster child if the:

Medium (1) Child driving has a valid drivers license; and

Medium (2) Service planning teams for the foster children being transported and the foster child transporting, if applicable, approve of the transportation arrangements.

§749.3107. May caregivers teach or supervise foster children in learning to drive?

September 2010

Medium (a) With your approval, caregivers may teach or supervise foster children in learning to drive. You must document your approval in the child's record.

Medium (b) Only the caregiver responsible for instruction and the child(ren) learning to drive may be present in the vehicle.

Best Practice Suggestion

It is recommended that any plan to teach a child to drive include the use of the Texas Department of Public Safety Parent Taught Driver Education Program or a TEA approved driving training school.

§749.3109. What are the special requirements for transporting a child who requires increased supervision or is non-ambulatory or non-mobile?

January 2007

Medium-High (a) A sufficient number of caregivers to meet the child's needs must accompany the child.

Medium-High (b) Special provision(s) must be made for transporting non-ambulatory and non-mobile children. When necessary, this must include locks for wheelchairs and hydraulic lifts.

§749.3111. Do the seat belt requirements prohibit transporting children in the bed of a pick-up truck or other parts of the vehicle on the foster parents' property or public roads?

January 2007

High Yes. Children must be inside the vehicle when transported. The back of a pick-up truck is not considered inside the vehicle. Children must never be transported in the bed of a pick-up truck, while standing on runners, or while on the hood or trunk of any vehicle.

Division 7, Swimming Pools, Bodies of Water, Safety

§749.3131. Who is responsible for complying with the requirements in this subchapter?

January 2007

(no weight) These requirements only apply to homes that are providing foster care services. This includes foster homes also approved as adoptive homes, but does not include adoptive homes only approved for adoption.

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

September 2010

High (a) The caregivers must inform children about house rules for use of the pool and appropriate safety precautions. Adult supervision and monitoring of safety features must be adequate to protect children from unsupervised access to the pool.

Medium-High (b) The swimming pool must be built and maintained according to the standards of the Department of State Health Services and any other applicable state or local regulations.

High (c) A fence or wall that is at least four feet high must enclose the pool area. The fence must be well constructed and be installed completely around the pool area. A foster home that you verified before January 2007, has one year from that date to comply with this requirement. Caregivers must continue to prevent children's unsupervised access to the pool.

(continued)

High (d) Fence gates leading to the outdoor pool area must be self-closing and self-latching. Gates must be locked when the pool is not in use. Keys to open the gate must not be accessible to children under the age of 16 years old or children receiving treatment services.

High (e) Doors that lead from the home to the pool area must have a lock that only adults or children over 10 years old can reach. The lock must be completely out of the reach of children younger than 10 years old.

High (f) Furniture, equipment, or large materials must not be close enough to the pool area for a child to use them to scale the fence or release a lock.

High (g) At least two life-saving devices must be available, such as a reach pole, backboard, buoy, or a safety throw bag with a brightly colored buoyant rope or throw line. One additional life-saving device must be available for each 2,000 square feet of water surface, so a pool of 2,000 square feet would require three life saving devices.

High (h) Drain grates must be in place, in good repair, and capable of being removed only with tools.

High (i) Caregivers must be able to clearly see all parts of the swimming area when supervising activity in the area.

High (j) The bottom of the pool must be visible at all times.

High (k) Pool covers must be completely removed prior to pool use.

High (l) An adult must be present who is able to immediately turn off the pump and filtering system when any child is in the pool.

Medium-High (m) Pool chemicals and pumps must be inaccessible to all children.

Medium-High (n) Machinery rooms must be locked to keep children out.

(o) An aboveground pool must:

High (1) Be inaccessible to children under the age of 16 years old or children receiving treatment services when it is not in use; and

High (2) Meet all other requirements in this rule except for subsections (c) - (e) of this section.

(no weight) (p) A pool cover does not substitute for any of the requirements in this rule.

Helpful Information

A backyard fence may serve as the pool fence/wall if it meets all fence/wall and gate criteria in 749.3133. Subsection (a) requires that children may not have unsupervised access to the pool area. Therefore, if the backyard fence serves as the pool fence/wall, then children may not have unsupervised access to the back yard and doors leading to the back yard must comply with 749.3133(e). If the entire backyard is serving as the pool area, children may not be in the backyard without direct caregiver supervision.

§749.3135. What general requirements must caregivers meet for children regarding a body of water?

September 2010

High (a) Caregivers must use prudent judgment and ensure children in your care are protected from unsupervised access to water such as a swimming pool, hot tub, fountain, pond, lake, creek, or other body of water.

High (b) If children are allowed to swim in a body of water such as a river, creek, pond, or lake, the supervising adult must clearly designate swimming areas.

Medium-High (c) Rules governing the activity and the dangers of the body of water must be explained to participants in a manner that is clearly understood prior to their participation.

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

September 2010

Medium-High (a) The maximum number of children one adult can supervise during swimming activities is based on the age of the youngest child in the group and is specified in the following chart:

If the age of the youngest child is…	Then you must have one adult to supervise every (number) child/ren in the group	Swimming Child/Adult Ratio
0 to 23 months old	1	1:1
2 years old	2	2:1
3 years old	3	3:1
4 years old	4	4:1
5 years old or older in a foster family home	6	6:1
5 years old or older in a foster group home	You must meet the applicable child/caregiver ratio in §749.2563	varies

High (b) In addition to meeting the required swimming child/adult ratio listed in subsection (a) of this section, if four or more children are engaged in swimming activities, then there must be at least two adults to supervise the children.

High (c) When a child who is non-ambulatory or who is subject to seizures is engaged in swimming activities, you must assign one adult to that one child. This adult must be in addition to any lifeguard on duty in the swimming area. You do not have to meet this requirement if a licensed physician writes orders in which the physician determines that the child:

(1) Is at low risk of seizures and that special precautions are not needed; or

(2) Only needs to wear an approved life jacket while swimming and additional special precautions are not needed.

(continued)

(no weight) (d) A lifeguard who is supervising the area where the children are swimming may be counted in the child/adult ratio.

(no weight) (e) The ratios in subsection (a) of this section do not include children over the age of 12 years old who are proficient swimmers. However you must still comply with the child/caregiver ratios required in §749.2563 of this title (relating to How do I determine child/caregiver ratio for a foster group home?), including compliance with subsection (c) of this section if children are on an unsupervised swimming activity.

§749.3139. May I include volunteers or relatives who do not meet minimum qualifications for caregivers in the swimming child/adult ratio?

September 2010

To meet the swimming child/adult ratio, you may include adult volunteers and adult relatives who do not meet the minimum qualifications for caregivers, providing:

High (1) You maintain enough caregivers to meet the child/caregiver ratio required in Subchapter M, Division 5 of this chapter (relating to Capacity and Child/Caregiver Ratio);

Medium-High (2) Persons in your care do not supervise water activities; and

High (3) You ensure compliance with all other rules of this chapter, including, but not limited to, rules relating to supervision and discipline.

§749.3141. When must a child wear a life jacket?

January 2007

A child must wear a life jacket when:

High (1) Participating in boating activities;

High (2) The child is in more than two feet of water and does not know how to swim; or

High (3) Ordered by a physician for a child with a medical problem or disability.

§749.3143. Must persons who are counted in the swimming child/adult ratio know how to swim and carry out a water rescue?

January 2007

High At all times during a swimming activity, at least one adult counted in the swimming child/adult ratio must be able to swim, carry out a water rescue, and be prepared to do so in an emergency.

§749.3145. What are the safety requirements for wading pools?

January 2007

Wading/splashing pools (less than two feet of water) must be:

Medium-High (1) Stored out of children’s reach, when not in use;

Medium-High (2) Drained at least daily; and

Medium-High (3) Stored, so it does not hold water.

§749.3147. What are the requirements for a hot tub?

September 2010

High A hot tub must be:

(1) Enclosed per the requirements in §749.3133 of this title (relating to What are the requirements for a pool at a foster home?); or

(2) Covered with a locking cover when not in use.

§749.3149. What must I document regarding a body of water that is on or adjacent and accessible to the premises of a foster home?

January 2007

You must document the following regarding a body of water that is on or adjacent and accessible to the premises of a foster home:

Medium (1) Type, location, and size of the body of water; and

Medium (2) Barriers between the foster home and the body of water.

Omitted from this publication:

Subchapter P, Foster-Adoptive Homes and Legal Risk Placements

Subchapter Q, Adoption Services: Children

Subchapter R, Adoption Services: Birth Parents

Subchapter S, Adoption Services: Adoptive Parents

Subchapter T, Additional Requirements for Child-Placing Agencies That Provide an Assessment Services Program

Subchapter V, Additional Requirements for Child-Placing Agencies That Provide Trafficking Victim Services