

Child Injuries and Fatalities Report

**As Required by
Human Resources Code Section
42.0412**

**Texas Health and Human Services
March 2024**



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1. Introduction

This report fulfills the requirements of Texas Human Resources Code (HRC) Section 42.0412(e),¹ which requires the Health and Human Services Commission (HHSC) to provide an annual report to the legislature that includes specific data concerning licensed day-care centers.² Specifically, the report provides the following information required by HRC §42.0412(e) for Fiscal Year 2023 (FY23):

1. The number of confirmed serious injuries and fatalities for children four years of age and younger, aggregated by the age of the injured or deceased child, including information collected by the Texas Department of Family and Protective Services (DFPS), that occurred:
 - A. At each licensed day-care center (see Tables 1 & 2); and
 - B. At a location other than a licensed day-care center;
2. The priority assigned to the investigation conducted by HHSC or DFPS in response to an incident that resulted in a serious injury or child fatality (see Table 3);
3. The number of investigations conducted by HHSC or DFPS at each licensed day-care center involving a child four years of age or younger that were assigned the highest priority or second-highest priority, aggregated by the age of the youngest affected child (see Table 4);
4. The number of violations the commission found at each licensed day-care center during investigations conducted by HHSC or DFPS at each licensed day-care center involving a child four years of age or younger that were assigned the highest priority or second-highest priority (see Tables 5 & 6); and
5. A comparison of whether children under the supervision of a licensed day-care center are more likely than children outside the supervision of a licensed day-care center to suffer a serious injury or death (See Section 3).

¹ Senate Bill (S.B) 708, 86th Legislature, Regular Session, 2019

² Licensed day-care centers (also known as licensed childcare center) means a child-care facility that provides care at a location other than the residence of the director, owner, or operator of the child-care facility for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week (HRC §42.002(7)). According to the **Fy2023 Child Day Care Data Book**, on August 31, 2023, there were 8,281 licensed day-care centers in Texas, with a total capacity of 1,007,791 children.

2. Licensed Day-Care Center Data

HHSC investigates reports that allege statute, administrative rules, or minimum standards have been or are in violation. HHSC documents all information in the Child Care Licensing Automated Support System (CLASS). DFPS investigates allegations of abuse, neglect, or exploitation, including all child fatalities. In FY 2023, DFPS documented their investigations in both the Information Management Protecting Adults and Children in Texas (IMPACT) and CLASS systems until May 7, 2023, at which point DFPS moved all investigation documentation exclusively to IMPACT.

At the conclusion of the investigation, the investigator indicates whether each child in the report has sustained a serious injury. HHSC and DFPS define a serious injury as any physical injury to a child that requires medical treatment and resulted or may result in impairment to the child's overall health or well-being. Serious injury data³ includes injuries identified as serious, near fatal or fatal. A serious injury does not include:

- Injuries for which a child is evaluated by a health care professional as a precaution;
- Injuries for which first aid is administered at the operation, but no further treatment by a health care professional is warranted; or
- Medical events due to routine, ongoing medical issues, such as asthma or seizures.

The data collected during an investigation includes the type and cause of the injury. The data in this report was collected during investigations that were completed by HHSC and DFPS. Data is presented by fiscal year.

³ Child Care Regulation Handbook (CCRH) defines "near fatal" as a subset of serious injuries in which the child would likely have died as a result of the injury or medical condition if the child did not get medical attention. In most circumstances, medical intervention include admittance to an intensive care unit. For the purpose of this report, near-fatal and fatal injuries are included in the count of serious injuries.

Confirmed Serious Injuries and Fatalities

Confirmed Serious Injuries and Fatalities in Licensed Day-Care Centers

The number of confirmed serious injuries and fatalities for children four years of age and younger, aggregated by the age of the injured or deceased child, that occurred at each licensed day-care center as required by HRC §42.0412(e)(1)(A) are presented in Table 1. A serious injury is confirmed when the provider is notified of the findings. There may be more than one victim per investigation with a confirmed serious injury.

Table 1. Victims with Confirmed Serious Injuries or Fatalities, by Victim Age, Ages 0-4 years: FY23⁴

Victims with Confirmed Serious Injuries or Fatalities	<1 year old	1 year old	2 years old	3 years old	4 years old	Total
HHSC Non-Abuse/Neglect Investigations: Number of Victims with Confirmed Serious Injury	17	99	156	171	125	568
DFPS Abuse/Neglect Investigations: Number of Victims with Confirmed Serious Injury	13	22	22	15	10	82
DFPS Abuse/Neglect Investigations: Number of Fatalities	1	0	0	0	0	1
Total	31	121	178	186	135	651

When conducting an investigation involving a serious injury of a child four years of age or younger, HHSC and DFPS determine and document the cause of the serious injury in the CLASS application (HHSC) and IMPACT (DFPS). The DFPS investigator selects from the cause of injury selections that most reflects how the child became injured that are available in IMPACT and the selection is copied (per batches) to the HHSC CLASS platform. If one of the available selections does not apply to the circumstance, the investigator selects "Other" as the cause of injury.

⁴ Count includes DFPS and HHSC investigation data of injuries with the determination of serious, near fatal or fatal, and at the closure of DFPS Abuse/Neglect investigations and HHSC Minimum Standards investigations.

The causes of confirmed serious injuries and fatalities for children four years of age and younger, aggregated by the age of the injured or deceased child, that occurred at each licensed day-care center are presented in Table 2. Victims may have more than one serious injury; therefore, multiple causes may be selected.

Table 2. Cause of Serious Injuries, Ages 0-4 years: FY23⁵

Cause of Injury	< 1 year old	1 year old	2 years old	3 years old	4 years old	Total
Other	22	42	70	77	45	256
Outdoor Equipment/Structure	0	20	40	57	48	165
Indoor Equipment/Structure	6	50	57	40	29	182
Discipline	1	3	4	5	2	15
Self-Inflicted	2	9	7	7	10	35
Vehicle	0	0	0	0	2	2
Tools/Equipment	0	0	1	1	0	2
Restraint and Seclusion	0	0	0	0	0	0
Water Activities	0	0	1	0	0	1
Total	31	124	180	187	136	658

Confirmed Serious Injuries and Fatalities in Locations Other than a Licensed Day-Care Center

HRC §42.0412(e)(1)(B) requires HHSC to report the number of confirmed serious injuries and fatalities for children four years of age and younger, aggregated by the age of the injured or deceased child that occurred at a location other than a licensed day-care center. To report on this information, HHSC reviewed data collected by the Texas Department of State Health Services (DSHS).

DSHS data sets are limited to inpatient hospital discharge data, outpatient data (e.g., hospital-based emergency rooms and ambulatory surgical centers), and the emergency medical services registry data. While DSHS collects serious injury data, the data does not

⁵ Count includes HHSC investigation data of serious injuries identified during HHSC Minimum Standards investigation and DFPS Abuse/Neglect investigations. The total number of serious injuries and fatalities in Table 1 does not match the total number of serious injuries in Table 2 due to HHSC and DFPS using different reporting methodologies.

indicate whether the injury occurred at a licensed day-care center or at a location other than a licensed day-care center. Further, DSHS does not categorize data according to the severity of the injury. As a result, HHSC was unable to identify and, therefore, is unable to report:

- Which injury data was associated with a location other than a licensed day-care center; and
- Which injury data was associated with an injury that would be comparable to a serious injury as defined by HHSC.

The report, [Child Safety Data for Licensed Day Care Centers \(December 2020\)](#), provides more information on the DSHS data sets that are available.

Investigations with Confirmed Serious Injury or Fatality

All reports that allege failure to comply with statute, administrative rules, or minimum standards require some degree of investigation, except under specific circumstances as defined in HHSC and DFPS policy and procedures.⁶

The number of Non-Abuse/Neglect Investigations completed by HHSC with a confirmed serious injury and the number of Abuse/Neglect Investigations completed by DFPS with a confirmed serious injury or child fatality aggregated by priority⁷ and age of child, as required by HRC §42.0412(e)(2) are presented in Table 3. This data set reflects all investigations with a confirmed serious injury, including investigations involving children over the age of four.

⁶ HHSC Child Care Regulation Handbook 6100 and DFPS Child Care Investigation Handbook 3321

⁷ Priority descriptions are outlined in Appendix C

Table 3. Investigations with Confirmed Serious Injuries by Priority and Age: FY23^{8, 9}

Confirmed Serious Injuries	<1 year old	1 year old	2 years old	3 years old	4 years old	>4 years old	Unknown Age¹⁰	Total¹¹
Number of P1 HHSC Non-Abuse/Neglect Investigations with Confirmed Serious Injury	0	0	0	0	0	0	0	0
Number of P2 HHSC Non-Abuse/Neglect Investigations with Confirmed Serious Injury	3	14	20	12	7	7	14	77
Number of P3 HHSC Non-Abuse/Neglect Investigations with Confirmed Serious Injury	1	2	4	3	1	3	6	20
Number of P4 HHSC Non-Abuse/Neglect Investigations with Confirmed Serious Injury	0	3	2	1	3	0	2	11
Number of P5 HHSC Non-Abuse/Neglect Investigations with Confirmed Serious Injury	5	24	29	37	27	34	12	168
Total HHSC Non-Abuse/Neglect Investigations w/ Confirmed Serious Injury	9	43	55	53	38	44	34	276

⁸ The age group is determined by the age of the youngest victim for the number of investigations.

⁹ Investigations or victims are included in counts when the investigation notification to provider date is within the fiscal year.

¹⁰ When the date of birth is not entered or entered incorrectly for a child, Age Group is "Unknown" and could include children older than 4 years old.

¹¹ The total number of investigations may not match the total number of victims with a confirmed serious injury because there may be more than one victim in a single investigation.

Confirmed Serious Injuries	<1 year old	1 year old	2 years old	3 years old	4 years old	>4 years old	Unknown Age¹⁰	Total¹¹
Number of P1 DFPS Abuse/Neglect Investigations with Confirmed Serious Injury or Fatality	3	5	0	0	1	0	0	9
Number of P2 DFPS Abuse/Neglect Investigations with Confirmed Serious Injury or Fatality	12	16	21	14	8	6	0	77
Total DFPS Abuse/Neglect Investigations with Confirmed Serious Injury	15	21	21	14	9	6	0	86
Grand Total	24	64	76	67	47	50	34	362

Investigations with the Highest or Second-Highest Priority

The number of Non-Abuse/Neglect Investigations completed by HHSC, and Abuse/Neglect Investigations completed by DFPS involving children four years of age or younger assigned the highest priority (P1) or the second highest priority (P2), as required by HRC §42.0412(e)(3) are presented in Table 4. This data set also includes investigations where HHSC and DFPS determined children four years of age or younger had no serious injuries or fatalities.

Table 4. Priority 1 and Priority 2 Investigations Involving Children Ages 0-4 Years: FY23

Priority 1 and Priority 2 Investigations	< 1 year old	1 year old	2 years old	3 years old	4 years old	Unknown Age¹²	Total
Number of P1 HHSC Non-Abuse/Neglect Investigations	1	0	0	0	0	10	11
Number of P2 HHSC Non-Abuse/Neglect Investigations	182	477	545	549	386	859	2998
HHSC Non-Abuse/Neglect Investigations Total	183	477	545	549	386	869	3009
Number of P1 DFPS Abuse/Neglect Investigations	13	17	6	9	10	0	55
Number of P2 DFPS Abuse/Neglect Investigations	120	277	296	261	160	0	1114
DFPS Abuse/Neglect Investigations Total	133	294	302	270	170	0	1169
Grand Total	316	771	847	819	556	859	4178

¹² When the date of birth is not entered or entered incorrectly for a child, Age Group "Unknown" and could include children older than four years old.

Minimum Standard Violations Cited During Priority 1 and Priority 2 Investigations

At the conclusion of investigations conducted by HHSC or DFPS, HHSC documents any violations of minimum standards confirmed during the investigation.

The number of violations cited as a result of an HHSC or DFPS investigation assigned the highest priority (P1) or the second highest priority (P2) involving children four years of age or younger, as required by HRC §42.0412(e)(4) are presented in Table 5.

Table 5. Minimum Standard Violations¹³ Cited as the Result of Priority 1 and Priority 2 Investigations Involving Children Ages 0-4 Years Old: FY23

Minimum Standard Violations Cited	< 1 year old	1 year old	2 years old	3 years old	4 years old	Unknown Age ¹⁴	Total
Number of Violations Cited as the Result of HHSC P1 Investigations	0	0	0	0	0	0	0
Number of Violations Cited as the Result of HHSC P2 Investigations	144	409	442	416	248	626	2285
Violations Cited in HHSC P1 and P2 Investigations Total	144	409	442	416	248	626	2285
Number of Violations Cited as the Result of DFPS P1 Investigations	14	11	1	2	7	0	35
Number of Violations Cited as the Result of DFPS P2 Investigations	74	229	203	168	110	0	784
Violations Cited in DFPS P1 and P2 Investigations Total	88	240	204	170	117	0	819
Grand Total	232	649	646	586	365	626	3104

¹³Includes only Investigation Violations that are marked as Non-Compliant with an administrative review status of "Waived" or "Upheld"

¹⁴When the date of birth is not entered incorrectly for a child Age Group is "Unknown" and could include children older than 4 years old.

The top four violations of minimum standards involving a confirmed serious injury in a child four years of age or younger in FY23 HHSC and DFPS Priority 1 and Priority 2 investigations are presented in Table 6. HHSC recognizes that the same minimum standards continue to be cited when completing an investigation resulting in a confirmed serious injury. During the six-year comprehensive review of minimum standards for licensed child care centers, HHSC reviewed these four rules to determine if updates would clarify regulatory requirements. As a result of the review, HHSC:

- Determined the language in §746.1201(1), relating to the employee responsibility of demonstrating competency, good judgment, and self-control, did not need to be clarified;
- Determined the language §746.1201(4), relating to the employee responsibility of ensuring no child is abused, neglected, or exploited, did not need to be clarified;
- Reorganized and updated §746.1203 and repealed and replaced 746.1205 to clarify the expectations for supervision that were previously in §746.1203(4) and 746.1205; and
- Updated the technical assistance box for §746.305(a)(2) in HHSC’s minimum standards publication to clarify when a center must report injuries that require treatment by a health-care professional or hospitalization.

These rule changes became effective in March 2023, during the middle of the FY23 period under review in this report. HHSC will re-assess the effectiveness of these rule changes once a full fiscal year of data is available in FY24.

Table 6. Top Minimum Standard Violations¹⁵ Cited as the Result of Priority 1 and Priority 2 Investigations Involving Serious Injuries of Children, Ages 0-4 Years: FY23

Minimum Standard	Description	FY2023¹⁶
746.1201(1)	Responsibilities of Employees and Caregivers -Demonstrate Competency, Good Judgment, Self-control	27
746.1201(4)	Responsibilities of Employees and Caregivers -Ensure No Child Abused, Neglected, or Exploited	15
746.1203(4)	Provide care consistent with child's habits, interests, strengths, special needs, including any special supervision needs	12
746.305(a)(2)	Report Child Injury Requiring Medical Treatment by a Health- Care Professional or Hospitalization	10
746.1205(a)(4)	Supervision ensures each child's safety, well-being, including physical proximity and auditory or visual awareness of each child's on-going activity	7
746.307(b)(1)	Parental Communication - Injury Requires Treatment by Health Care Professional or Hospitalization	6
746.2805(3)	Prohibited Punishments - Grabbing and Pulling	6
Other Violations ¹⁷	Includes a variety of 74 rules and two statute violations	101
Total		184

¹⁵ Includes only Investigation Violations that are marked as Non-Compliant with an administrative review status of "Waived" or "Upheld."

¹⁶ Number of times this standard was cited in the FY as the result of a P1 and P1 injury involving serious injury to a child age 0-4 years.

¹⁷ "Other Violations" includes a variety of 76 rules and two statute violations that CCR cited between one and five times each.

3. Data Comparison

HRC §42.0412(e)(5) requires HHSC to include a comparison on whether children under the supervision of a licensed day-care center are more likely than children outside the supervision of a licensed day-care center to suffer a serious injury or death. To complete this comparison and devise a methodology to determine pro-rata basis of frequency of number of violations and number of serious injury or death events, HHSC reviewed data collected by HHSC, DFPS, and DSHS.

As noted earlier in this report, HHSC staff encountered the data limitations listed below while working to make meaningful comparisons of injuries and fatalities at licensed day-care centers versus incidents at locations other than licensed day-care centers:

- Children who sustain injuries and attend a licensed child-care center may be double counted across data sets;
- Lack of standardized definition of 'serious injury' in Texas; and
- Injury data is not universally collected within the state.

While HHSC and DFPS data differentiates between serious and non-serious injuries, HHSC found that the DSHS data sets for inpatient hospital discharge data, outpatient data (e.g., hospital-based emergency rooms and ambulatory surgical centers), and emergency medical services registry data do not categorize data according to the severity of the injury.

In addition, the DSHS data does not indicate whether the injury occurred at a licensed day-care center or at a location other than a licensed day-care center. Therefore, HHSC is unable to identify and exclude injuries in the DSHS data that occurred at a licensed day-care center for the purpose of completing the comparison required by Texas Human Resources Code, Chapter 42.

Refer to the report, [Child Safety Data for Licensed Day Care Centers \(December 2020\)](#), for more information regarding:

- The DSHS data sets available; and
- Limitations in comparing injury data to determine whether children under the supervision of a licensed day-care center are more likely than children outside the supervision of a licensed day-care center to suffer a serious injury or death.

List of Acronyms

Acronym	Full Name
CCR	Child Care Regulation
CLASS	Child Care Licensing Automated Support System
DFPS	Department of Family and Protective Services
DSHS	Department of State Health Services
FY	Fiscal Year
HHS	Health and Human Services
HHSC	Health and Human Services Commission
S.B.	Senate Bill

Appendix A. Definitions

Child Care Regulation

Prior to March 2020, Child Care Regulation was referenced as Child Care Licensing. The name will be changed in policy documents, manuals, and internet websites as updates are made.

Minimum Standards

Minimum standards are developed by HHSC with the assistance of licensed day- care centers, parents, lawyers, doctors, and other experts in a variety of fields. Human Resources Code Chapter 42 sets guidelines for what must be included in the minimum standards.

Appendix B. CCR Summary and Regional Operations Map

HHSC Child Care Regulation (CCR) is a department within HHSC's Regulatory Services Division and is authorized under Texas Human Resources Code, Chapter 42, to protect the health, safety, and well-being of Texas children in out of home care by establishing statewide minimum standards, regulating and educating operations providing out of home care to children. Child Care Regulation has two major functional field operations: Day-Care Regulation, which includes the Unregulated Operations Unit, and Residential Child Care Regulation, which includes Heightened Monitoring unit.

Main CCR Program Functions:

1. Process applications and issue permits
2. Inspect operations to ensure compliance with minimum standards, rules, and licensing laws
3. Investigate violations of minimum standards, rules, or licensing law (including unregulated operations)
4. Provide technical assistance to operations
5. Develop minimum standards and administrative rules
6. Educate parents and the public
7. Conduct background checks

Child Care Regulation's Regional Operations Map



Appendix C. Investigation Priority Descriptions

HHSC Investigations of Minimum Standards Violations

HHSC investigates allegations that claim statute, administrative rules, or minimum standards have been or are in violation. HHSC does not investigate allegations of abuse, neglect, or exploitation.¹⁸

HHSC classifies the priority of a report based on:

- Information available at the time of intake;
- The presence of current threats to the child’s immediate safety;
- Degree of harm the child has sustained or may sustain in the next 12 months; and
- The allegation that presents the greatest risk to the child if multiple allegations are reported.¹⁹

HHSC has five classifications of priorities. The chart below explains when HHSC assigns an investigation a priority.

Table 7. HHSC Investigations of Minimum Standard Violations: Priorities

Priority	Explanation
Priority 1: Violation of the law or minimum standards that pose an immediate risk to children	A report of a violation of a law or minimum standard places children in care at immediate risk of serious or substantial harm.
Priority 2: Injury or serious mistreatment of a child	A report that a child in care is disciplined, punished, or physically restrained in a manner that is prohibited by minimum standards, including a report that a child in care sustained a serious injury as a result of discipline, punishment, physical restraint, or other type of mistreatment prohibited by minimum standards.

¹⁸ Child Care Regulation Handbook (CCRH), 6110

¹⁹ CCRH 6241

Priority	Explanation
Priority 2: Serious Accidental Injury	A report that a child suffered a serious accidental injury (i.e., a serious injury that is the result of an accident) and the injury may be a result of a violation of minimum standards.
Priority 2: Serious safety or health hazards	<p>A report of a violation of the minimum standards related to safety or health that may pose a risk of substantial harm to children in care.</p> <p>OR</p> <p>A report that a person who is present at the operation has criminal or Central Registry history that may expose children in care to risk of harm. This includes:</p> <ul style="list-style-type: none"> ● A person who has recent arrest history that poses a risk of harm to children and whose arrest has not gone through the justice system; ● A person who has recent Central Registry history and the person has not gone through due process; and <p>A person on the sexual offender registry whose address is an exact match to the operation's address.</p> <p>OR</p> <p>A report that an alleged unregulated operation:</p> <ul style="list-style-type: none"> ● Meets any of the criteria above; ● Has a history of being investigated for operating without a permit; ● Was previously listed, licensed, or registered and closed voluntarily or by adverse action; or ● Is caring for more than 12 unrelated and related children.
Priority 2: Serious supervision problems	A report of a violation of the minimum standards related to supervision that may pose a risk of substantial harm to children in care.
Priority 3: Illegal operations with no other allegations (RC only)	A report that care is being provided to children by a residential care operation that does not have a permit, may be subject to regulation, and there are no other allegations.

Priority	Explanation
Priority 3: Minor violation of the law or minimum standards that involve low risk to children	<p>A report of a violation of a law or minimum standard that poses low risk of harm to the health or safety of children in care.</p> <p>OR</p> <p>Risk factors exist that indicate children may be at risk of harm. Risk factors include, but are not limited to:</p> <ul style="list-style-type: none"> ● Minor injuries that are accidental in nature and may indicate supervision problems; and <p>A pattern of incidents that normally do not require an investigation (such as repeated runaways).</p> <p>OR</p> <p>A report of a serious injury or medical incident that:</p> <ul style="list-style-type: none"> ● Contains information in the intake report that the parent or guardian has concerns regarding supervision or safety; and ● Is not a self-report; and ● Does not indicate the serious injury or medical incident is the result of a minimum standards violation.
Priority 5: CPA internal investigation	A report that is assigned to the child placing agency as an internal investigation.
Priority 5: Illegal operations with no other allegations (DC only)	A report that care is being provided to children by a day care operation that does not have a permit but may be subject to regulation, and there are no other allegations.
Priority 5: Desk review	<p>A self-report of a minor violation of minimum standards that:</p> <ul style="list-style-type: none"> ● Does not contain information in the intake report that the parent or guardian has concerns Regarding supervision or safety; and ● May be investigated without an inspection. <p>OR</p> <p>A self-report of a serious injury that:</p> <ul style="list-style-type: none"> ● Does not contain information in the intake report that the parent or guardian has concerns regarding supervision or safety; ● Does not indicate that the serious injury is the result of a minimum standards violation; and ● May be investigated without an inspection.

DFPS Investigations of Abuse, Neglect, or Exploitation of a Child

DFPS investigates reports of abuse or neglect that allege a child in care of a licensed day-care center was or may be harmed because of an act or omission by a person working under the supervision of a licensed day-care center. Such harm must meet the definitions of abuse or neglect, as described in the Texas Family Code and Texas Administrative Code. DFPS also investigates reports of exploitation that allege a person working under the auspices of a licensed day-care center engaged in illegal or improper use of a child or used a child’s resources for monetary or personal benefit, profit, or gain. The licensed day-care center where the alleged abuse, neglect, or exploitation occurred may also be violating other statutes, administrative rules, or minimum standards.

DFPS assigns priorities based on the following factors:

- The information available at the time of intake.
- The presence of current threats to the child’s immediate safety.
- The degree of harm the child has sustained or may sustain in the foreseeable future.
- The allegation that presents the greatest risk to the child if multiple allegations are reported.²⁰

DFPS has two classifications of priorities. The chart below explains when DFPS assigns an investigation the highest priority or the second highest priority.²¹

Table 8. DFPS Investigations of Abuse, Neglect or Exploitation: Priorities

Priority	Explanation
Priority 1: Death of a child	A child dies while in the care of an operation that is subject to regulation.
Priority 1: Immediate danger of death	A child has been abused or neglected, and the abuse or neglect places the child or other children at immediate risk of death or substantial harm.

²⁰ Child Care Investigations Handbook (CCIH) 3322

²¹ CCIH 3322.3

Priority	Explanation
Priority 2: Abuse, neglect, or exploitation that does not indicate an immediate danger of death or serious injury	A child has been abused, neglected, or exploited while in the care of an operation that is subject to regulation, but the child and other children are currently safe from risk of death or substantial harm.