

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 749 MINIMUM STANDARDS FOR CHILD-PLACING AGENCIES
SUBCHAPTER D REPORTS AND RECORD KEEPING
DIVISION 1 REPORTING SERIOUS INCIDENTS AND OTHER OCCURRENCES

REPEAL

§749.501. What is a serious incident?

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§749.501. What do certain terms mean in this subchapter?

These terms have the following meanings in this subchapter:

(1) Serious incident--A non-routine occurrence that has or may have dangerous or significant consequences for the care, supervision, or treatment of a child. The different types of serious incidents are noted in §749.503 of this division (relating to When must I report and document a serious incident?).

(2) Triggered review of a child’s unauthorized absences--A review of a specific child’s pattern of unauthorized absences when the child has had three unauthorized absences within a 60-day timeframe.

(3) Unauthorized absence--A child is absent from a foster home without permission from the foster parent, or other temporary caregiver, and cannot be located. This includes when an unauthorized person has removed the child from the foster home.

Helpful Information

Regarding paragraph (3): Child-placing agencies (CPA) should use their best judgment based on the totality of the circumstances on a case by case basis to determine if there is an unauthorized absence. Example 1: if a teenager is routinely late in returning to a foster home from an extracurricular activity, the CPA would likely take the child’s routine into account when assessing the possibility of an unauthorized absence. Example 2: If a teenager is on an unsupervised activity and calls and informs the foster parent that he/she will be late in returning to the home, this situation is not likely to be an unauthorized absence.

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

(a) You must report and document the following types of serious incidents involving a child in your care. The reports must be made to the following entities, and the reporting and documenting must be within the specified timeframes:

Figure: 26 TAC §749.503(a)

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

<p>(1) A child dies while in your care.</p>	<p>(A)(i) YES</p> <p>(A)(ii) Within 2 hours after the child's death.</p>	<p>(B)(i) YES</p> <p>(B)(ii) Within 2 hours after the child's death.</p>	<p>(C)(i) YES</p> <p>(C)(ii) Immediately, but no later than 1 hour after the child's death.</p>
<p>(2) A substantial physical injury or critical illness that a reasonable person would conclude needs treatment by a medical professional or hospitalization.</p>	<p>(A)(i) YES</p> <p>(A)(ii) Report as soon as possible, but no later than 24 hours after the incident or occurrence.</p>	<p>(B)(i) YES</p> <p>(B)(ii) Report as soon as possible, but no later than 24 hours after the incident or occurrence.</p>	<p>(C)(i) NO</p> <p>(C)(ii) Not Applicable</p>
<p>(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.</p>	<p>(A)(i) YES, including whether you plan to move the child until the investigation is complete.</p> <p>(A)(ii) As soon as you become aware of it.</p>	<p>(B)(i) YES, including whether you plan to move the child until the investigation is complete.</p> <p>(B)(ii) As soon as you become aware of it.</p>	<p>(C)(i) NO</p> <p>(C)(ii) Not applicable</p>
<p>(4) Physical abuse committed by a child against another child. For the purpose of this subsection, physical abuse occurs when there is substantial physical injury, excluding any accident; or failure to make a reasonable effort to prevent an action by another person that results in substantial physical injury to the child.</p>	<p>(A)(i) YES</p> <p>(A)(ii) As soon as you become aware of it.</p>	<p>(B)(i) YES</p> <p>(B)(ii) As soon as you become aware of it.</p>	<p>(C)(i) NO</p> <p>(C)(ii) Not applicable</p>
<p>(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</p>	<p>(A)(i) YES</p> <p>(A)(ii) As soon as you become aware of it.</p>	<p>(B)(i) YES</p> <p>(B)(ii) As soon as you become aware of it.</p>	<p>(C)(i) NO</p> <p>(C)(ii) Not applicable</p>

<p>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.</p>			
<p>(6) A child is indicted, charged, or arrested for a crime, not including being issued a ticket at school by law enforcement or any other citation that does not result in the child being detained; or when law enforcement responds to an alleged incident at the foster home.</p>	<p>(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after you become aware of it.</p>	<p>(B)(i) YES (B)(ii) As soon as you become aware of it.</p>	<p>(C)(i) NO (C)(ii) Not applicable</p>
<p>(7) The unauthorized absence of a child who is developmentally or chronologically under 6 years old.</p>	<p>(A)(i) YES (A)(ii) Within 2 hours of notifying law enforcement.</p>	<p>(B)(i) YES (B)(ii) Within 2 hours of notifying law enforcement.</p>	<p>(C)(i) YES (C)(ii) Immediately upon determining the child is not on the premises and the child is still missing.</p>
<p>(8) The unauthorized absence of a child who is developmentally or chronologically 6 to 12 years old.</p>	<p>(A)(i) YES (A)(ii) Within 2 hours of notifying law enforcement, if the child is still missing.</p>	<p>(B)(i) YES (B)(ii) Within 2 hours of determining the child is not on the premises, if the child is still missing.</p>	<p>(C)(i) YES (C)(ii) Within 2 hours of determining the child is not on the premises, if the child is still missing.</p>

<p>(9) The unauthorized absence of a child who is 13 years old or older.</p>	<p>(A)(i) YES</p> <p>(A)(ii) No later than 6 hours from when the child's absence is discovered and the child is still missing. However, you must report the child's absence immediately if the child has previously been alleged or determined to be a trafficking victim, or you believe the child has been abducted or has no intention of returning to the foster home.</p>	<p>(B)(i) YES</p> <p>(B)(ii) No later than 6 hours from when the child's absence is discovered and the child is still missing. However, you must report the child's absence immediately if the child has previously been alleged or determined to be a trafficking victim, or you believe the child has been abducted or has no intention of returning to the foster home.</p>	<p>(C)(i) YES</p> <p>(C)(ii) No later than 6 hours from when the child's absence is discovered and the child is still missing. However, you must report the child's absence immediately if the child has previously been alleged or determined to be a trafficking victim, or you believe the child has been abducted or has no intention of returning to the foster home.</p>
<p>(10) A child in your care contracts a communicable disease that the law requires you to report to the Department of State Health Services (DSHS) as specified in 25 TAC 97, Subchapter A, (relating to Control of Communicable Diseases).</p>	<p>(A)(i) YES, unless the information is confidential.</p> <p>(A)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease.</p>	<p>(B)(i) YES, if their child has contracted the communicable disease or has been exposed to it.</p> <p>(B)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease.</p>	<p>(C)(i) NO</p> <p>(C)(ii) Not applicable</p>
<p>(11) A suicide attempt by a</p>	<p>(A)(i) YES</p>	<p>(B)(i) YES</p>	<p>C)(i) NO</p>

child.	(A)(ii) As soon as you become aware of the incident.	(B)(ii) As soon as you become aware of the incident.	(C)(ii) Not applicable
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(b) If there is a medically pertinent incident, such as a seizure, that does not rise to the level of a serious incident, you do not have to report the incident but you must document the incident in the same manner as for a serious incident, as described in §749.511 of this division (relating to How must I document a serious incident?).

(c) You must document an unauthorized absence that does not meet the reporting time requirements defined in subsection (a)(7) - (9) of this section within 24 hours after you become aware of the unauthorized absence. You must document the absence:

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

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

(d) If there is a serious incident involving an adult resident, you do not have to report the incident to Licensing, but you must document the incident in the same manner as a serious incident. You do have to report the incident to:

(1) Law enforcement as outlined in the chart above;

(2) The parents, if the adult resident is not capable of making decisions about the resident's own care; and

(3) Adult Protective Services through the Texas Abuse and Neglect Hotline if there is reason to believe the adult resident has been abused, neglected or exploited.

(e) You must report and document the following types of serious incidents involving your agency, one of your foster homes, an employee, professional level service provider, contract staff, or a volunteer to the following entities within the specified timeframe:

Figure: 26 TAC §749.503(e)

Serious Incident	(i) To Licensing?	(i) To Parents?
	(ii) If so, when?	(ii) If so, when?
(1) Any incident that renders all or part of your agency or a foster home unsafe or unsanitary for a child, such as a fire or a flood.	(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after the incident.	(B)(i) YES (B)(ii) As soon as possible, but no later than 24 hours after the incident.

<p>(2) A disaster or emergency that requires a foster home to close.</p>	<p>(A)(i) YES</p> <p>(A)(ii) As soon as possible, but no later than 24 hours after the incident.</p>	<p>(B)(i) YES</p> <p>(B)(ii) As soon as possible, but no later than 24 hours after the incident.</p>
<p>(3) An adult who has contact with a child in care contracts a communicable disease noted in 25 TAC Chapter 97, Subchapter A, (relating to Control of Communicable Diseases).</p>	<p>(A)(i) YES, unless the information is confidential.</p> <p>(A)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease.</p>	<p>(B)(i) YES, if their child has contracted the communicable disease or has been exposed to it.</p> <p>(B)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease.</p>
<p>(4) An allegation that a person under the auspices of your agency who directly cares for or has access to a child in the setting has abused drugs within the past seven days.</p>	<p>(A)(i) YES</p> <p>(A)(ii) Within 24 hours after learning of the allegation.</p>	<p>(B)(i) NO</p> <p>(B)(ii) Not applicable.</p>
<p>(5) An investigation of abuse or neglect by an entity (other than Licensing) of an employee, professional level service provider, foster parent, contract staff, volunteer, or other adult at the agency.</p>	<p>(A)(i) YES</p> <p>(A)(ii) As soon as possible, but no later</p>	<p>(B)(i) NO</p> <p>(B)(ii) Not applicable.</p>
<p>(6) An arrest, indictment, or a county or district attorney accepts an "Information" regarding an official complaint, against an employee, professional level service provider, foster parent, contract staff, volunteer, or other adult at the agency alleging commission of any crime as provided in §745.661 of this title (relating to What types of criminal convictions may affect a subject's ability to be present at an operation?); or when law enforcement responds to an alleged incident at the foster home.</p>	<p>(A)(i) YES</p> <p>(A)(ii) As soon as possible, but no later than 24 hours after you become aware of the situation.</p>	<p>(B)(i) NO</p> <p>(B)(ii) Not applicable.</p>

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

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

Figure: 26 TAC §749.513

Serious incident	Documentation
(1) Child death, substantial physical injury, or a suicide attempt reportable under §749.503(a)(1), (2), and (11) of this division (relating to When must I report and document a serious incident?).	Any emergency behavior intervention implemented on the child within 48 hours prior to the serious incident.
(2) Any substantial physical injury reportable under §749.503(a)(2) of this division 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.
(3) Unauthorized absence of a child.	(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; (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; (D) Whether the child has returned to the foster home, and if so, the length of time the child was gone from the foster home; and (E) If the child returns to the foster home after 24 hours, an addendum to the report that documents the child's return.
(4) Any physical or sexual abuse committed by a child against another child reportable under §749.503(a)(4) or (5) of this division .	The difference in size, age, and developmental level of the children involved in the physical or sexual abuse.

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DIVISION 5 UNAUTHORIZED ABSENCES

§749.590. What additional requirements are there for unauthorized absences of children from a foster home?

(a) For each unauthorized absence of a child, you must:

(1) Document the unauthorized absence in an annual summary log, as required by §749.591 of this division (relating to What documentation must be included in an annual summary log for a child who has an unauthorized absence?); and

(2) Debrief the child, as required by §749.592 of this division (relating to What are the requirements for debriefing a child after an unauthorized absence?).

(b) If a child has three unauthorized absences within a 60-day timeframe, you must conduct a triggered review of the child's unauthorized absences that is consistent with the rules in this division; and

(c) You must conduct an overall agency evaluation for unauthorized absences every six months, as required by §749.596 of this division (relating to What is an overall agency evaluation for unauthorized absences?).

§749.591. What documentation must be included in an annual summary log for a child who has an unauthorized absence?

(a) For each unauthorized absence during the relevant year, you must document the following information in an annual summary log:

(1) The name, age, gender, and date of admission of the child who was absent;

(2) The time and date the unauthorized absence was discovered;

(3) How long the child was gone or if the child did not return;

(4) The name of the caregiver responsible for the child at the time the child's absence was discovered;

(5) The intake report number, if a report was made to Licensing or the Department of Family and Protective Services; and

(6) Whether law enforcement was contacted, including the name of any law enforcement agency that was contacted and the number of the police report, if applicable.

(b) You must maintain each annual summary log for five years.

(c) You must make the annual summary logs available to Licensing for review and reproduction, upon request.

§749.592. What are the requirements for debriefing a child after an unauthorized absence?

(a) After a child returns to the foster home from an unauthorized absence, the foster parent, or other appropriate person, must conduct a debriefing with the child as soon as possible, but no later than 24 hours after the child's return. The purpose of the debriefing is for the child and the foster parent, or other appropriate person, to discuss the following:

(1) The circumstances that led to the child's unauthorized absence;

(2) The trauma informed strategies the child can use to avoid future unauthorized absences and how the foster parent can support those strategies;

(3) The child's condition; and

(4) What occurred while the child was away from the foster home, including where the child went, who was with the child, the child's activities, and any other information that may be relevant to the child's health and safety.

(b) The foster parent must allow the child to return to routine activities, excluding any activity that the foster parent determines would be inappropriate because of the child's condition following the unauthorized absence or something that occurred during the unauthorized absence.

(c) The debriefing must be documented in the child's record, including any routine activity that would be inappropriate for the child to return to and the explanation for why the activity is inappropriate.

Helpful Information

- *While debriefing a child of any age, a foster parent or other person conducting the debriefing should respect the wishes of the child and allow the child to decline the debriefing or to ask for a different person to conduct the debriefing.*
- *Regarding Paragraph (a)(4), if a child discloses that abuse or neglect may have occurred during an unauthorized absence, the foster parent or other person conducting the debriefing must make a report the Department of Family and Protective Services and should not ask any additional questions regarding the abuse or neglect. The foster parent or other person conducting the debriefing must complete the remaining requirements of the debriefing.*

§749.593. When must a triggered review of a child's unauthorized absences occur?

(a) A triggered review of a child's unauthorized absences must occur as soon as possible, but no later than 30 days after the child's third unauthorized absence within a 60-day timeframe.

(b) A regularly scheduled review of the child's service plan can serve as the triggered review of a child's unauthorized absences, if the regularly scheduled

review:

(1) Meets the requirements in §749.595 of this division (relating to What must the triggered review of a child's unauthorized absences include?); and

(2) Takes place no later than 30 days after the child's third unauthorized absence within a 60-day timeframe.

§749.594. Who must participate in a triggered review of a child's unauthorized absences?

(a) The triggered review of a child's unauthorized absences must include the following participants:

(1) The child;

(2) The foster parent; and

(3) Child placement staff.

(b) You must notify the child's parent at least two weeks before the triggered review of a child's unauthorized absences, so the parent will have an opportunity to participate in the review.

§749.595. What must a triggered review of a child's unauthorized absences include?

A triggered review for a child's unauthorized absences must include the following:

(1) A review of the child's records documenting previous unauthorized absences, including previous debriefings;

(2) A review of service plan elements identified in §749.1309(b)(1)(D) and (H) and, as applicable, §749.1309(b)(2) and (3) of this chapter (relating to What must a child's initial service plan include?);

(3) An examination of trauma informed alternatives to minimize the unauthorized absences of the child; and

(4) A written plan to reduce the unauthorized absences of the child, which you must document in the child's record.

§749.596. What is an overall agency evaluation for unauthorized absences?

(a) Every six months, you must conduct an overall agency evaluation for unauthorized absences that have occurred at your foster homes during that time period.

(b) The objectives of the evaluation are to:

(1) Develop and maintain a trauma informed environment that supports positive and constructive behaviors by children in care; and

(2) Ensure the overall safety and well-being of children in care.

(c) The evaluation must include:

(1) The frequency and patterns of unauthorized absences of children from your foster homes; and

(2) Specific trauma informed strategies to reduce the number of unauthorized absences from your foster homes.

(d) You must maintain the results of each six-month overall agency evaluation for unauthorized absences for five years.

(e) You must make the results of each overall agency evaluation for unauthorized absences available to Licensing for review and reproduction, upon request.