



# Minimum Standards Revision Notice

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**Date:** June 8, 2020

**Effective Date:** June 1, 2020

**To:** All Holders of Chapter 749, Minimum Standards for Child-Placing Agencies

**From:** Jean Shaw, HHSC Associate Commissioner for Child-Care Licensing

**Subject:** New Requirements for the Unauthorized Absence of a Child from a Foster Home:

- Reporting Serious Incidents and Other Occurrences; and
- Unauthorized Absences

The repeal, amendments, and new sections address the issue of unauthorized absences of children from Child-Placing Agencies (CPAs) by requiring CPAs to take additional actions when a child leaves a foster home without permission (unauthorized absence). Previously, rules required CPAs to document when a child is absent and cannot be located for a specified timeframe, depending on the age and development level of the child. The repeal, amendments, and new sections include additional requirements, such as:

- Documenting each time a child has an unauthorized absence, regardless of the length of time the child is absent;
- Maintaining an annual log of each unauthorized absence; debriefing the child after each unauthorized absence;
- Conducting a triggered review for each child who has had three unauthorized absences within a 60-day timeframe; and
- Conducting an overall agency evaluation every six months.

The changes were effective June 1, 2020.

## **New Requirements for the Unauthorized Absence of a Child from a Foster Home**

### **Reporting Serious Incidents and Other Occurrences**

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

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

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

#### **New §749.501:**

- Incorporates the definition for “serious incident” that was previously in repealed §749.501.
- Adds two new definitions for:
  - “Unauthorized absence”, which is when a child is absent from a foster home and cannot be located, including when an unauthorized person has removed the child from the home; and
  - “Triggered review of a child’s unauthorized absences”, which is a review of a specific child’s pattern of unauthorized absences after a child has had three unauthorized absences within a six-month period; and
- Adds a Helpful Information box after the rule, which provides an explanation on how CPAs should make a determination of whether a certain incident is an unauthorized absence.

#### **Amended §749.503:**

- Clarifies that the serious incidents at subsections (a)(7), (8), and (9) is for the unauthorized absence of a child; and
- Because the definition of “unauthorized absence” is broader than just the unauthorized absences noted at (a)(7), (8), and (9), new subsection (c) clarifies that any unauthorized absence that does not meet the reporting requirements in subsections (a)(7), (8), and (9) must still be documented in the same manner as any other serious incident, as required by §749.513. It must be documented within 24 hours after the home or the agency becomes aware of the unauthorized absence. If the child returns to a foster home after more than 24 hours, then the agency must complete an addendum to the serious incident report to finalize the documentation requirements.

#### **Amended §749.513:**

- Clarifies that the serious incident that requires documentation at subsection (3) is for the unauthorized absence of a child; and
- Added documentation requirements for the unauthorized absence of a child, including:

- Whether the child has returned to the foster home, and if so the length of time that the child was gone from the home; and
- If the child returns after 24 hours, requiring an addendum to the report that document's the child's return.

### **Unauthorized Absences**

- §749.590. What additional requirements are there for unauthorized absences of children from a foster home?
- §749.591. What documentation must be included in an annual summary log for a child who has an unauthorized absence?
- §749.592. What are the requirements for debriefing a child after an unauthorized absence?
- §749.593. When must a triggered review of a child's unauthorized absences occur?
- §749.594. Who must participate in a triggered review of a child's unauthorized absences?
- §749.595. What must a triggered review of a child's unauthorized absences include?
- §749.596. What is an overall agency evaluation for unauthorized absences?

New §749.590 generally lists the new additional requirements when there is an unauthorized absence of a child from a foster home, including:

- Documenting the unauthorized absence in an annual summary log;
- Debriefing the child after an unauthorized absence;
- Conducting a triggered review if the child has three unauthorized absences within a 60-day period; and
- Conducting an overall agency evaluation for unauthorized absences every six months.

New §749.591 lists the information that must be documented in an annual summary log for each unauthorized absence of a child and states the log must be maintained for five years and made available to Licensing upon request.

New §749.592:

- Requires a documented debriefing of a child as soon as possible, but no later than 24 hours after the child's return from an unauthorized absence;
- Requires the debriefing to include a discussion of:
  - The circumstances that led to the unauthorized absence;
  - The trauma informed strategies the child can use to avoid unauthorized absences in the future and how the foster parent can support those strategies;
  - The child's condition; and
  - What occurred while the child was away from the foster home; and

- Requires the child to return to routine activities except for those activities the foster parent determines and documents as inappropriate because of the child’s condition after the unauthorized absence; and
- Adds a Helpful Information box after the rule to explain that:
  - While debriefing a child of any age, the person conducting the debriefing should respect the wishes of the child and allow the child to decline the debriefing or ask for a different person to conduct the debriefing; and
  - If a child discloses in the debriefing that abuse or neglect may have occurred during the unauthorized absence, the person conducting the debriefing must make a report to DFPS, should not ask additional questions regarding the abuse or neglect, and must complete any other remaining requirements of the debriefing.

New §§749.593, 749.594, and 749.595 are the requirements for a triggered review, including:

- The review must occur as soon as possible but no later than 30 days after the child’s third unauthorized absence within a 60-day timeframe;
- There must be participation by the child, the foster parent, and the child placement staff;
- Notice must be given to the parent/conservator at least two weeks before the review to give the parent/conservator an opportunity to participate in the review; and
- The review must include:
  - A review of previous records regarding previous unauthorized absences and debriefings;
  - A review of certain service plan elements;
  - An examination of trauma informed alternatives to minimize unauthorized absences; and
  - A written plan to reduce the unauthorized absences of the child.

[Note: A regularly scheduled review of a child’s service plan may serve as the triggered review if it meets the above requirements.]

New §749.596:

- Requires an overall agency evaluation to be conducted every six months regarding the unauthorized absences that have occurred in agency foster homes during that time period;
- Establishes that the objectives of the evaluation are to:
  - Develop and maintain a trauma informed environment that supports positive and constructive behaviors by children; and
  - Ensure the overall safety and well-being of children;
- Requires the evaluation to include:
  - The frequency and patterns of unauthorized absences of children in

- agency foster homes; and
  - Specific trauma informed strategies to reduce the number of unauthorized absences in agency foster homes; and
- Requires the evaluations to be maintained for five years and to be made available to Licensing upon request.

You may view and print copies of the updated Minimum Standards from the website at <https://hhs.texas.gov/doing-business-hhs/provider-portals/protective-services-providers/child-care-licensing/minimum-standards>.

If you have questions, please contact your licensing representative or send an email to [rcclstan@hhsc.state.tx.us](mailto:rcclstan@hhsc.state.tx.us).