



TEXAS
Department of Family
and Protective Services

Heightened Monitoring

FOSTER CARE LITIGATION REMEDIAL COURT ORDER 20

Issued 3/18/2020

Remedial Court Order 20 – Heightened Monitoring

Following consultation with HHSC and DFPS involving written and verbal feedback, the Monitors have ordered the following framework for implementation of Remedial Order 20:



TEXAS

Department of Family
and Protective Services

Remedial Court Order 20 – Heightened Monitoring

PATTERN:

“A pattern is defined as a high rate of contract and standards violations for at least three of the last five years.”



TEXAS

Department of Family
and Protective Services

Remedial Court Order 20 – Heightened Monitoring

Steps in identifying the pattern:

1. Each agency (HHSC and DFPS) shall review data for the rate of contract and standards violations, including confirmed findings of abuse and neglect, for the last five years. The rate is calculated using the number of violations divided by the operation's capacity multiplied by 10 (Number of contract or standards violations/capacity X 10).
 - *Data is from calendar years 2015-2019. Pattern will be run annually, adding calendar year 2020 and dropping off calendar year 2015. Data for 2016-2020 will be re-run.*
2. For each of the last five years, compare the operation's rate of violations to the combined rate of violations for all operations of similar size (small, medium, or large) and service type (basic general residential operation, residential treatment center, child placing agency, and independent foster family and group homes).
 - *Numerator is number of violations during the year and denominator is licensed capacity for a GRO and active homes for a CPA*
3. If the operation's rate of violations rated medium, medium-high, or high is above the combined rate of violations rated medium, medium-high, or high for operations of similar size and service type for three of the last five years, then there is a pattern of violations.
4. Each agency shall inform the other of all operations identified as having a pattern of deficiencies.



TEXAS

Department of Family
and Protective Services

Remedial Court Order 20 – Heightened Monitoring

Operation Size:

Small operations: Those with a capacity of 20 or fewer children or, for CPAs, 20 or fewer open foster homes;

Medium operations: Those with a capacity of 21-50 children or 21- 50 open foster homes; and

Large operations: Those with a capacity of more than 50 children or more than 50 open foster homes.

Operation Service Type:

Basic General Residential Operation (*includes Emergency Shelters and Child Care*)

General Residential Operation – Residential Treatment Center

Child Placing Agency

Independent Foster Family and Group Homes (*not included as DFPS no longer contracts with these types of homes*)



TEXAS

Department of Family
and Protective Services

Remedial Court Order 20 – Heightened Monitoring

HEIGHTENED MONITORING



TEXAS

Department of Family
and Protective Services

Remedial Court Order 20 – Heightened Monitoring

Facility Intervention Team Staffing (FITS)

When an operation is identified for heightened monitoring, FITS is scheduled within 5 days. The intervention team is made up of staff from, at least, RCCL, DFPS CCI, DFPS Contracts, and CPS.

During the FITS, the team will review:

- Any trends for the operation identified as a result of the 5-year retrospective analysis.
- Any monitoring plans or corrective or enforcement actions for the operation in the last 5 years;
- Any risk analyses conducted by RCCL or DFPS for the operation in the last 5 years.



TEXAS

Department of Family
and Protective Services

Remedial Court Order 20 – Heightened Monitoring

FITS cont.:

If the review reveals events that implicate an ongoing concern for the health and safety of children, the intervention team will develop a safety plan and temporarily suspend placements until all concerns for children's health and safety have been addressed.



TEXAS

Department of Family
and Protective Services

Remedial Court Order 20 – Heightened Monitoring

HEIGHTENED MONITORING PLAN:

The FITS team is responsible for developing a heightened monitoring plan that:

1. Outlines a coordinated response from RCCL & DFPS, including a list of staff from both agencies who will serve on the heightened monitoring team for the operation;
2. Describes a detailed and specific plan addressing:
 - The pattern of policy violations that led to heightened monitoring;
 - Any barriers to compliance identified during a review of previous corrective or enforcement actions or risk analyses;
 - Any technical assistance needed by the operation from DFPS, RCCL, or a third party;
 - The steps the operation must take to satisfy the plan.



TEXAS

Department of Family
and Protective Services

Remedial Court Order 20 – Heightened Monitoring

While an operation is on heightened monitoring:

- RCCL and DFPS will share responsibility for at least weekly unannounced visits to the operation, and
- any placements of PMC children must be directly approved by the Associate Commissioner of CPS.
- Caseworkers for PMC children in operations under heightened monitoring must be made aware of the monitoring.



TEXAS

Department of Family
and Protective Services

Remedial Court Order 20 – Heightened Monitoring

HEIGHTENED MONITORING PLAN DURATION:

The heightened monitoring plan will remain in place for at least one year, and until:

- the operation satisfies the conditions of the plan;
- at least six months' successive unannounced visits indicate the operation is in compliance with the standards and contract requirements that led to heightened monitoring; and
- the operation is not out of compliance on any medium-high or high weighted licensing standards.



TEXAS

Department of Family
and Protective Services

Remedial Court Order 20 – Heightened Monitoring

After the operation is released from the plan:

- DFPS and RCCL will coordinate to make at least three unannounced visits in the three months following the release from the plan, and
- the heightened monitoring team will continue to track intake data for the operation for six months to ensure it does not lose progress made during monitoring.

If the operation does not come into compliance with the plan during the heightened monitoring period, DFPS and RCCL will identify one or more of the following penalties:

- suspension of placements;
- imposition of fines;
- suspension or revocation of the facility or CPA's license;
- termination of the contract.



TEXAS

Department of Family
and Protective Services

Remedial Court Order 20 – Heightened Monitoring

Questions?



TEXAS

Department of Family
and Protective Services