

MINIMUM STANDARDS

FOR

SHELTER CARE

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TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES
LICENSING DIVISION

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INTRODUCTION

Minimum Standards

The Texas Department of Family and Protective Services (DFPS) is required by Chapter 42 of the Human Resources Code to conduct a comprehensive review of the minimum standard rules every six years. These minimum standards are developed by the Texas Department of Family and Protective Services (DFPS) with the assistance of child-care operations, stakeholders, parents, and other experts in a variety of fields. Chapter 42 of the Human Resources Codes sets guidelines for what must be included in the standards. The Administrative Procedure Act requires that proposed standards be published for public comment before they are adopted as rules. The department considers recommendations from interested persons or groups in formulating the final draft, which is filed as rules with the Secretary of State and published in the Texas Register. 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 also 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 standard or 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 Licensing staff, documented, and considered in conjunction with the standard weights when making enforcement decisions. *You will see weights are noted in the left margin next to each standard or subsection. Only those standards which can be violated are weighted. For example, definitions are not weighted.*

Maintaining Compliance

It is essential that you and your employees and caregivers recognize four critical aspects of Licensing's efforts to protect the children in care and to help operation employees and caregivers comply with the law, rules, and standards. The four aspects are:

- Inspection
- Technical assistance
- Investigations
- An operation's rights

The Inspection

Various aspects of regulated operations are evaluated for compliance with the minimum standards, rules, and law during regular inspections. The emphasis on these inspections is to prevent risk to children in care. The frequency of inspections will fluctuate, depending on the type of permit and an operation's ability to comply with the standards, rules, and law.

A deficiency is any failure to comply with a standard, rule, law, specific term of the permit or condition of evaluation, probation, or suspension. During any inspection, if licensing staff find that the operation does not meet minimum standards, rule, or law, the areas of deficiency are discussed with the person in charge at the conclusion of the inspection. You are given an opportunity to correct deficiencies within a specified period of time and we encourage you to discuss disagreements and concerns with licensing staff. If your concerns are not resolved, you may request an administrative review.

Technical Assistance

Licensing staff are available to offer consultation to potential applicants, applicants, and permit holders regarding how to comply with minimum standards, rules, and laws. Licensing staff often provide technical assistance during inspections and investigations. However, technical assistance can be requested at any time.

The Child Care Licensing section of the DFPS web site also has a Technical Assistance Library. The Technical Assistance Library allows you to view or download articles and information about a variety of topics related to child care. The DFPS Web site is www.dfps.state.tx.us.

A feature of the minimum standards is the provision of “Helpful Information” delineated by boxes, following certain standards. This information is not a necessary component of meeting standards, but rather it is provided to help you meet the standards in a way best suited for your operation.

Investigations

When a report to Licensing alleges abuse or neglect, standards deficiency, or a violation of law or rule, we must investigate the report, notify the operation of the investigation, and provide a written report to the operation of the investigation results within prescribed time frames.

An Operation’s Rights

Waivers and Variances

If an operation is unable to comply with a standard for economic reasons, or wishes to meet the intent of a standard in a way that is different from what the standard specifies, a waiver or variance of the standard may be requested. The request is made in writing to the operation’s assigned Licensing Inspector.

Administrative Review

If you disagree with a Licensing decision or action, you may request an administrative review, where you are given an opportunity to show compliance with applicable law, rule, minimum standards, license restrictions and/or license conditions.

Appeals

An operation may request an appeal hearing on a Licensing decision to deny an application or revoke or suspend a permit or a condition placed on the permit after initial issuance.

Appeal hearings are conducted by the State Office of Administrative Hearings (SOAH).

For Further Information

It is important that you and your operation employees and caregivers clearly understand the purpose of minimum standards and the reasons for Licensing’s inspections. Do not hesitate to ask questions of licensing staff that will help you understand any aspect of Licensing. You may obtain information about licensing standards or procedures by calling your local Licensing office or by visiting the DFPS Web site at www.dfps.state.tx.us.

MINIMUM STANDARDS FOR SHELTER CARE

Chapter 743, Texas Administrative Code, Title 40, Social Services & Assistance,
Part 19, Department of Family and Protective Services

Subchapter A, Definitions and Services

§743.1. What do certain pronouns mean as used in this chapter?

Subchapter A, Definitions and Services
September 2010

The following words have the following meanings when used in this chapter:

- No Weight (1) I, my, you, and your – An applicant or permit holder, unless otherwise stated.
- No Weight (2) We, us, our, and Licensing – The Licensing Division of the Department of Family and Protective Services (DFPS).

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

Subchapter A, Definitions and Services
March 2012

The following words have the following meanings in this chapter:

- No Weight (1) Caregiver – A person counted in the child/caregiver ratio whose duties include direct care, supervision, guidance, and protection of a child in your care. Caregivers may be employees, contractors, or volunteers.
- No Weight (2) Child – A child 13 years old or younger who is in your care.
- No Weight (3) Infant – A child in your care from birth through 17 months.
- No Weight (4) Primary Caregiver – A caregiver that is also responsible for being available to other caregivers during any child-care hours of operation and for ensuring that all children in care are adequately supervised per §743.109 of this title (relating to How many caregivers are required?).
- No Weight (5) Resident – An adult resident of your operation.
- No Weight (6) Supplemental caregiver – A person who is not counted in the child/caregiver ratio but provides direct care, supervision, guidance, or protection of a child in your care.

§743.5. What child care is regulated under this chapter?

Subchapter A, Definitions and Services
September 2010

- (a) Child care is regulated under this chapter if it is provided:
- No Weight (1) At a temporary shelter, such as a family violence or homeless shelter;
 - No Weight (2) Only for children temporarily residing with a parent at the shelter;
 - No Weight (3) While the child's resident parent is away from the shelter;
 - No Weight (4) On a recurring and scheduled basis; and
 - No Weight (5) For at least four hours per day and three or more days per week.
- (b) If you also offer care for the children of employees, the children of non-resident clients, or any other non-resident children, your entire child-care program is regulated as a child-care center and must follow the requirements in Chapter 746 of this title (relating to Minimum Standards for Child-Care Centers).
- No Weight (c) If you only offer care for children while the resident parent is on the shelter premises, then the program is exempt from regulation. If you provide care for both children whose parents are on the premises and children whose parents are away from the shelter, all of the child care is regulated under this chapter unless the two groups of children are separated.

Helpful Information

*Occasional care, offered on an emergency basis only, is not subject to regulation.
Per §745.37 Shelter Care is regulated when **seven** or more children are in care.*

§743.7. What are my operational responsibilities?

Subchapter A, Definitions and Services
March 2012

- You must:
- Medium High (1) Provide the location of your operation, so that we may conduct inspections and investigations, by giving us:
 - (A) Your location address; or
 - (B) A method to immediately contact your operation that allows our staff to obtain your location address within 30 minutes;
 - Medium (2) Provide in writing to Licensing any change in location of the shelter care operation, or change in the method to contact your operation for location purposes, at least 30 days before the change occurs;
 - Medium High (3) Provide in writing to Licensing any changes to your correspondence address or telephone number before the change occurs;
 - Medium High (4) Allow us to inspect your operation during its hours of operation, as outlined in §745.8407(6) of this title (relating to When will Licensing inspect and/or investigate an operation?);

(continued)

- (5) Post at your operation the:
- Medium (A) Permit we issue you; and
- Medium (B) Licensing notice *Keeping Children Safe*;
- High (6) Observe the conditions and restrictions of your permit;
- Medium (7) Maintain true, current, accurate, and complete records at your operation for us to review, as required by this chapter and any other applicable law or rule; and
- Medium High (8) Comply with the applicable Child Care Licensing laws found in Chapter 42 of the Human Resources Code, the applicable minimum standards, and other applicable law and rule.

Helpful Information

If you are a family violence shelter, follow (1)(A) of this rule if your shelter has completed the process set forth in the Family Violence Prevention Services Act (FVPSA) to become a public location. If you have not completed this process, follow (1)(B) of this rule.

§743.9. If residents provide care for other residents' children, is this subject to regulation?

*Subchapter A, Definitions and Services
September 2010*

Residents providing care for the children of other residents are not regulated by Licensing.

Best Practice Suggestions

Licensing recommends that:

- *A resident providing child care for another resident's child(ren) not care for more than four children under 13 years old, including her own children and the unrelated children.*
- *A resident, who has four or more of her own children ages 13 years old or younger, not care for another resident's children at any time.*
- *In establishing your guidelines for residents providing care for the children of other residents, consider the additional stress this may create for the mother providing the care and her own children.*

Subchapter B, Personnel and Training

§743.101. What are the minimum qualifications?

*Subchapter B, Personnel and Training
September 2010*

- (a) Primary caregivers must:
 - Medium (1) Be at least 18 years of age;
 - Medium High (2) Have a high school diploma or its equivalent; and
 - High (3) Meet the background check requirements in this subchapter.
- (b) Caregivers must:
 - Medium High (1) Be at least 14 years of age and at least two years older than the oldest child in their care; and
 - High (2) Meet the background check requirements in this subchapter.
- (c) Supplemental caregivers must meet the background check requirements in this subchapter.

§743.103. What training is required?

*Subchapter B, Personnel and Training
September 2010*

- (a) Within 30 days after beginning duties, primary caregivers, caregivers, and supplemental caregivers must complete the following training:
 - Medium High (1) A presentation on your applicable operational policies, including discipline;
 - Medium High (2) An overview of signs of child abuse, neglect, and sexual abuse and the responsibility for reporting these;
 - Medium (3) Emergency procedures, including fire, severe weather, volatile person on the premises, and severe injury or illness of a child;
 - Medium High (4) Prevention and spread of communicable disease; and
 - Medium (5) The use and location of fire extinguishers and first-aid equipment.
- (b) Primary caregivers must, within 30 days after hire and annually thereafter, have at least one hour of training regarding the following topics:
 - Medium High (1) Recognizing and preventing shaken baby syndrome;
 - Medium High (2) Preventing sudden infant death syndrome; and
 - Medium High (3) Understanding early childhood brain development.
- (c) Each year, primary caregivers must obtain at least 15 clock hours of training relevant to child care, such as child development.
- (d) At all times, at least one caregiver counted in the child-to-caregiver ratio must have CPR certification.
- (e) At all times, at least one caregiver counted in the child-to-caregiver ratio must have first-aid certification.

§743.105. What are the background check requirements?

Subchapter B, Personnel and Training
March 2015

- (a) You must request a name-based criminal history check and a DFPS central registry check for:
 - High (1) The directors, owners, operators, or administrators of the child-care operation;
 - High (2) Employees and applicants you intend to hire for the child-care operation;
 - High (3) Any person who is counted in the child/caregiver ratio; and
 - High (4) Any person who has unsupervised access to children in the child-care operation.
- High (b) You must request a fingerprint-based criminal history check for any person who requires a background check under subsection (a) of this section, if that person has lived outside of Texas any time during the previous five years or there is reason to believe other criminal history exists.
- No Weight (c) You are not required to request a background check on licensed professionals who have currently cleared a background check in compliance with another governmental entity's requirements, if you do not employ or contract with the professional.
- No Weight (d) You must request required background checks based on the following rules:
 - (1) §745.623 of this title (relating to How do I request a background check?);
 - (2) §745.625 of this title (relating to When must I submit a request for an initial or renewal background check?) other than §745.625(a)(6) of this title;
 - (3) §745.629 of this title (relating to How do I submit fingerprints for a fingerprint-based criminal history check?); and
 - (4) §745.630 of this title (relating to If a fingerprint-based criminal history check has already been completed on a person, must that person submit new fingerprints at the time my initial or renewal background check on that person is due?).
- (e) You must ensure all information related to background checks is kept confidential as required by the Human Resources Code §40.005(d) and (e).
- No Weight (f) You may allow the person to provide direct care or have direct access to a child in care after you request a background check unless or until DFPS notifies you that the person may not be present at your operation.
- No Weight (g) Background check results will be addressed based on the rules found in the following divisions of Chapter 745, Subchapter F of this title (relating to Background Checks):
 - (1) Division 3 (relating to Criminal Convictions and Central Registry Findings of Child Abuse or Neglect);
 - (2) Division 4 (relating to Evaluation of Risk Because of a Criminal Conviction or a Central Registry Finding of Child Abuse or Neglect);

(continued)

- (3) Division 5 (relating to Designated and Sustained Perpetrators of Child Abuse or Neglect); and
- (4) Division 6 (relating to Immediate Threat or Danger to the Health or Safety of Children).

§743.107. What personnel records are required?

*Subchapter B, Personnel and Training
March 2012*

For primary caregivers, caregivers, and supplemental caregivers, you must have a record at the operation that includes at least:

- Medium (1) Proof that the person meets the age and education requirements in §743.101 of this title (relating to What are the minimum qualifications?);
- High (2) Proof of required background check(s); and
- Medium (3) Documentation that training requirements have been met.

§743.109. How many caregivers are required?

*Subchapter B, Personnel and Training
March 2012*

- Medium High (a) At least one primary caregiver must be on duty and available to other caregivers during all child-care hours of operation.
- Medium High (b) Each primary caregiver or caregiver may not be responsible for more than 12 children five years old or younger. Children under one year old count as two children.
- Medium High (c) Each primary caregiver or caregiver may not be responsible for more than 28 children six years old and older.
- Medium High (d) When age groups are mixed, there must be at least one primary caregiver or caregiver per 20 children, with no more than 12 children in the group five years old or younger.
- Medium High (e) The primary caregiver is responsible for ensuring that all children in care are adequately supervised.
- No weight (f) If a child is attending a therapeutic activity, which the child would attend whether or not he was in your child-care program, the child is not considered to be in the child-care program for the duration of the therapeutic activity.
- No weight (g) If a child is attending an activity sponsored by a volunteer organization, which the child would attend whether or not he was in your child-care program, the child is not considered to be in the child-care program for the duration of the activity sponsored by the volunteer organization.

Subchapter C, Serious Incident Reporting

§743.201. When must I report a serious incident to Licensing?

*Subchapter C, Serious Incident Reporting
March 2012*

- (a) You must report the following types of serious incidents if they occur when the child is in your child-care program. The reports must be made to the following entities, and the reporting must be within the specified time frames:

	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law enforcement? (ii) If so, when?	
High	(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.	(B)(i) YES (B)(ii) Immediately.	(C)(i) YES (C)(ii) Immediately.
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.	(B)(i) YES (B)(ii) Report as soon as possible, but no later than 24 hours after the incident or occurrence.	(C)(i) NO (C)(ii) Not Applicable.
High	(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 (A)(ii) As soon as you become aware of it.	(B)(i) YES (B)(ii) As soon as you become aware of it.	(C)(i) NO (C)(ii) Not applicable.

(continued)

	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law enforcement? (ii) If so, when?
High (4) A lost or missing child.	(A)(i) YES (A)(ii) As soon as you become aware that the child is lost or missing.	(B)(i) YES (B)(ii) As soon as you become aware that the child is lost or missing.	(C)(i) NO (C)(ii) Not applicable.
High (5) 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.	(B)(i) YES (B)(ii) As soon as you become aware of it.	(C)(i) NO (C)(ii) Not applicable.
High (6) A suicide attempt by a child.	(A)(i) YES (A)(ii) As soon as you become aware of the incident.	(B)(i) YES (B)(ii) As soon as you become aware of the incident.	(C)(i) NO (C)(ii) Not applicable.

(b) You must report the following types of serious incidents involving your operation or an employee to the following entities within the specified time frame:

	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?
High (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.	(B)(i) YES (B)(ii) As soon as possible, but no later than 24 hours after the incident.
High (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.	(B)(i) YES (B)(ii) As soon as possible, but no later than 24 hours after the incident.

Helpful Information

Family violence shelters must make all serious incident reports required by this rule, but may need to consider how to do so while also maintaining compliance with federal laws such as the Family Violence Prevention Services Act (FVPSA). Confidentiality of family violence victims will be maintained by Licensing per the rules in TAC Chapter 745, Subchapter K (Inspections and Investigations), Division 3 (Confidentiality).

§743.203. What are my responsibilities regarding the report of abuse, neglect, or exploitation?

*Subchapter C, Serious Incident Reporting
September 2010*

High

In addition to reporting serious incidents, you must inform your employees of the duty to report suspected abuse, neglect, or exploitation as required by the Texas Family Code, §261.101.

Appendix I: Definitions

*Texas Administrative Code, Title 40 Social Services and Assistance
Part 19, Texas Department of Family and Protective Services
Chapter 745, Licensing
Subchapter A. Precedence and Definitions
Division 3. Definitions for Licensing*

§745.21. What words must I know to understand this subchapter?

The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise:

- (1) Abuse – As defined in the Texas Family Code, §261.401(1) (relating to Agency Investigation) and §745.8557 of this title (relating to What is abuse?).
- (2) Affinity – Related by marriage as set forth in the Government Code, §573.024 (relating to Determination of Affinity).
- (3) Capacity – The maximum number of children that a permit holder may care for at one time.
- (4) Caregiver – A person whose duties include the supervision, guidance, and protection of a child or children.
- (5) Child – A person under 18 years old.
- (6) Child-care facility – An establishment subject to regulation by Licensing which provides assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the establishment operates for profit or charges for its services. A child-care facility includes the people, administration, governing body, activities on or off the premises, operations, buildings, grounds, equipment, furnishings, and materials. A child-care facility does not include child-placing agencies, listed family homes, or employer-based child care.
- (7) Child day care – As defined in §745.33 of this title (relating to What is child day care?).
- (8) Child-placing agency (CPA) – A person, including an organization, other than the parents of a child who plans for the placement of or places a child in a child-care operation or adoptive home.
- (9) Children related to the caregiver – Children who are the children, grandchildren, siblings, great-grandchildren, first cousins, nieces, or nephews of the caregiver, whether by affinity or consanguinity or as the result of a relationship created by court decree.
- (10) Consanguinity – Two individuals are related to each other by consanguinity if one is a descendant of the other; or they share a common ancestor. An adopted child is considered to be related by consanguinity for this purpose. Consanguinity is defined in the Government Code, §573.022 (relating to Determination of Consanguinity).

(continued)

- (11) Contiguous operations – Two or more operations that touch at a point on a common border or located in the same building.
- (12) Controlling person – As defined in §745.901 of this title (relating to Who is a controlling person at a child-care operation?).
- (13) Deficiency – Any failure to comply with a standard, rule, law, specific term of your permit, or condition of your evaluation, probation, or suspension.
- (14) Designated perpetrator – As defined in §745.731 of this title (relating to What are designated perpetrators and sustained perpetrators of child abuse or neglect?).
- (15) Division – The Licensing Division within the Texas Department of Family and Protective Services (DFPS).
- (16) Employee – Any person employed by or that contracts with the permit holder, including but not limited to caregivers, drivers, kitchen personnel, maintenance and administrative personnel, and the center/program director.
- (17) Endanger – To expose a child to a situation where physical or mental injury to a child is likely to occur.
- (18) Exploitation – As defined in the Texas Family Code, §261.401(2) (relating to Agency Investigation).
- (19) Finding – The conclusion of an investigation or inspection indicating compliance or deficiency with one or more minimum standards or laws.
- (20) Governing body – The entity with ultimate authority and responsibility for the operation.
- (21) Governing body designee – The person named on the application as the designated representative of a governing body who is officially authorized by the governing body to speak for and act on its behalf in a specified capacity.
- (22) Household member – An individual, other than the caregiver(s), who resides in an operation.
- (23) Kindergarten age – As defined in §745.101(1) of this title (relating to What words must I know to understand this subchapter?).
- (24) Licensed administrator – As defined in §745.8905 of this title (relating to What is a licensed administrator?).
- (25) Military service member – A person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.
- (26) Military spouse – A person married to a military service member who is currently on active duty.
- (27) Military veteran – A person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.

(continued)

- (28) Minimum standards – The rules contained in Chapters 743 of this title (relating to Minimum Standards for Shelter Care, 744 of this title (relating to Minimum Standards for School-Age and Before or After-School Programs), 746 of this title (relating to Minimum Standards for Child-Care Centers), 747 of this title (relating to Minimum Standards for Child-Care Homes), 748 of this title (relating to General Residential Operations), 749 of this title (relating to Child-Placing Agencies), 750 of this title (relating to Independent Foster Homes), and Division 11 (relating to Employer-Based Child Care) of Subchapter D of this chapter (relating to Application Process), which are minimum requirements for permit holders that are enforced by DFPS to protect the health, safety and well-being of children.
- (29) Neglect – As defined in the Texas Family Code, §261.401(3) (relating to Agency Investigation) and §745.8559 of this title (relating to What is neglect?).
- (30) Operation – A person or entity offering a program that may be subject to Licensing’s regulation. An operation includes the building and grounds where the program is offered, any person involved in providing the program, and any equipment used in providing the program. An operation includes a child-care facility, child-placing agency, listed family home, or employer-based child care.
- (31) Parent – A person that has legal responsibility for or legal custody of a child, including the managing conservator or legal guardian.
- (32) Permit – A license, certification, registration, listing, compliance certificate, or any other written authorization granted by Licensing to operate a child-care facility, child-placing agency, listed family home, or employer-based child care. This also includes an administrator’s license.
- (33) Permit holder – The person or entity granted the permit.
- (34) Pre-kindergarten age – As defined in §745.101(2) of this title (relating to What words must I know to understand this subchapter?).
- (35) Program – Activities and services provided by an operation.
- (36) Regulation – The enforcement of statutes and the development and enforcement of rules, including minimum standards. Regulation includes the licensing, certifying (both state run and employer-based operations), registering, and listing of an operation or the licensing of an administrator.
- (37) Report – An expression of dissatisfaction or concern about an operation, made known to DFPS staff, that alleges a possible violation of minimum standards or the law and involves risk to a child/children in care.
- (38) Residential child care – As defined in §745.35 of this title (relating to What is residential child care?).
- (39) State Office of Administrative Hearings (SOAH) – See §745.8831 and §745.8833 of this title (relating to What is a due process hearing? and What is the purpose of a due process hearing?).
- (40) Sustained perpetrator – See §745.731 of this title (relating to What are designated perpetrators and sustained perpetrators of child abuse or neglect?).

Appendix II: Definitions of Abuse, Neglect, Exploitation

Texas Family Code

Title 5, The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship

Subtitle E, Protection of the Child

Chapter 261, Investigation of Report of Child Abuse or Neglect

Subchapter E, Investigations of Abuse, Neglect, or Exploitation in Certain Facilities

Sec. 261.401. AGENCY INVESTIGATION.

(a) Notwithstanding Section 261.001, in this section:

- (1) "Abuse" means an intentional, knowing, or reckless act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program that causes or may cause emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.
 - (2) "Exploitation" means the illegal or improper use of a child or of the resources of a child for monetary or personal benefit, profit, or gain by an employee, volunteer, or other individual working under the auspices of a facility or program as further described by rule or policy.
 - (3) "Neglect" means a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.
- (b) Except as provided by Section 261.404, a state agency that operates, licenses, certifies, registers, or lists a facility in which children are located or provides oversight of a program that serves children shall make a prompt, thorough investigation of a report that a child has been or may be abused, neglected, or exploited in the facility or program. The primary purpose of the investigation shall be the protection of the child.
- (c) A state agency shall adopt rules relating to the investigation and resolution of reports received as provided by this subchapter. The Health and Human Services Commission shall review and approve the rules of agencies other than the Texas Department of Criminal Justice, Texas Youth Commission, or Texas Juvenile Probation Commission to ensure that those agencies implement appropriate standards for the conduct of investigations and that uniformity exists among agencies in the investigation and resolution of reports.
- (d) The Texas School for the Blind and Visually Impaired and the Texas School for the Deaf shall adopt policies relating to the investigation and resolution of reports received as provided by this subchapter. The Health and Human Services Commission shall review and approve the policies to ensure that the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf adopt those policies in a manner consistent with the minimum standards adopted by the Health and Human Services Commission under Section 261.407.

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