

Normalcy Rule Changes
FINAL DRAFT
December 1, 2016

Chapter 748 Minimum Standards for General Residential Operations

Subchapter E, Personnel

Division 5, Caregivers

§748.685. What responsibilities does a caregiver have when supervising a child or children?

(a) - (b) (No change.)

(c) Caregivers must:

(1) Be aware of the children's habits, interests, and any special needs, including any special supervision needs;

(2) Provide a safe environment;

(3) Cultivate developmentally appropriate independence in children through planned but flexible program activities;

(4) Positively reinforce children's efforts and accomplishments;

(5) Ensure continuity of care for children by sharing with incoming caregivers information about each child's activities during the previous shift and any verbal or written information or instructions given by the parent or other professionals; and

(6) Implement and follow the children's service plans.

~~(d) A child may be away from the operation and caregivers in order to participate in an unsupervised activity, as appropriate based on the caregiver's assessment of the child and the supervision instructions in the child's service plan. The caregiver's assessment of the child must include the factors outlined in subsection (b) of this section. The child's service plan must specify if unsupervised activities are allowed, and under what circumstances. The unsupervised activity may extend into sleeping hours.~~ If a child is participating in an unsupervised childhood activity, the caregiver must:

(1) Know where the child will be;

(2) Give the child a specific time to return to the operation or the caregiver's location;

(3) Provide, arrange, or confirm an appropriate method of transportation to and from the activity;

(4) Give the child a way to contact the caregiver in an emergency; and

~~(5)~~ Be available to respond if the child contacts the caregiver and needs immediate assistance.

(e) - (f) (No change.)

Subchapter E, Personnel

NEW Division 6, Normalcy

NEW §748.701. What is "normalcy"?

Normalcy is the ability of a child in care to live as normal a life as possible, including engaging in childhood activities that are suitable for children of the same age, level of maturity, and developmental level as determined by a reasonable and prudent parent standard.

NEW §748.703. Are children in care required to participate in childhood activities?

(a) Children in care must participate in childhood activities, including unsupervised childhood activities, as much as possible.

(b) Service planning meetings, and any decision making regarding the child's need for supervision, must include discussions on how normalcy for the child can be achieved, and discussions, if applicable, regarding a child's refusal to participate in childhood activities. The child's service plan must specify whether there are any restrictions on the child's participation in these activities and whether the activities may extend into sleeping hours.

NEW §748.705. What is the "reasonable and prudent parent standard"?

(a) The reasonable and prudent parent standard is the standard of care that a parent of reasonable judgment, skill, and caution would use to maintain the health, safety, and best interest of the child and encourage the emotional and social growth and development of the child.

(b) When using the reasonable and prudent parent standard, a person must take into consideration the following when deciding whether a child may participate in childhood activities:

(1) The child's age and level of maturity;

(2) The child's cognitive, social, emotional, and physical development level;

(3) The child's behavioral history and ability to safely participate in a proposed

activity;

(4) The child's overall abilities;

(5) Whether the activity is a normal childhood activity for a child of that age and level

of maturity;

(6) The child's desires;

(7) The surrounding circumstances, hazards, and risks of the activity;

(8) Outside supervision of the activity, if available and appropriate;

(9) The supervision instructions in the child's service plan; and

(10) The importance of providing the child with the most normal family-like living experience possible.

NEW §748.707. Who makes the decision regarding a foster child's participation in childhood activities?

(a) A General Residential Operation (GRO) must designate one or more persons to make decisions regarding a child's participation in childhood activities, except as otherwise provided in subsection (c) of this section.

(b) When making decisions regarding a child's participation in childhood activities, a designated person must follow the reasonable and prudent parent standard.

(c) The service plan may not require the prior approval of the parent before a designated person may consent to a child's participation in childhood activities. However, if the parent provides notice in advance that the child is prohibited from participating in a specific activity, a designated person must follow the parent's decision.

NEW §748.709. Are there any restrictions on who can be a designated person that makes decisions regarding a child's participation in childhood activities?

(a) Caregivers hired after August 31, 2016 may not be a designated person that makes decisions regarding a child's participation in childhood activities until the caregiver completes either a two hour pre-service training regarding normalcy or the annual training specific to normalcy.

(b) A designated person that makes decisions regarding a child's participation in childhood activities must:

(1) Work at the location where the child resides; and

(2) Be knowledgeable about the child's current needs and history.

(c) The name of each designated person must be documented on the face sheet of the child's record.

Subchapter E, Personnel

Division ~~6~~7, Contract Staff and Volunteers

[Need to renumber Division 6 and make it Division 7. The Rules Unit will send to the Texas Register notification of this change prior to publication of the rules.]

Subchapter F, Training and Professional Development

Division 3, Pre-Service Experience and Training

§748.863. What are the pre-service hourly training requirements for caregivers and employees?

(a) Caregivers and certain employees must complete the following training hours before the noted time frame:

Who is required to receive the training?	What type of pre-service training?	How many hours of training are	When must the training be completed?
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		needed required?	
(1) All caregivers	General pre-service training	8 hours	Before the person can be the only caregiver responsible for a child in care
<u>(2) Child care administrators, professional level service providers, treatment directors, and case managers</u>	<u>Pre-service training regarding normalcy</u>	<u>2 hours</u>	<u>Before the person can be a designated person that makes decisions regarding a child's participation in childhood activities, or within 90 days of beginning job duties, whichever occurs earlier</u>
<u>(23)</u> Caregivers caring for children receiving only child care services or programmatic services	Pre-service training regarding emergency behavior intervention	8 hours	At least 4 hours of training before the person can be the only caregiver responsible for a child in care, and all 8 hours of training within 90 days of being responsible for a child in care
<u>(34)</u> Caregivers caring for children receiving treatment services, except for those exclusively caring for children receiving treatment services for primary medical needs	Pre-service training regarding emergency behavior intervention	16 hours, however, if your operation prohibits the use of emergency behavior intervention, then only 8 hours of training are needed	At least half of the required hours of training before the person can be the only caregiver responsible for a child in care, and all of the required hours of training within 90 days of being responsible for a child in care
<u>(45)</u> Child care administrators, professional level service providers, treatment directors, and case managers, except those exclusively assigned to children receiving treatment services	Pre-service training regarding emergency behavior intervention	8 hours	All 8 hours of training within 90 days of beginning <u>job duties</u>

for primary medical needs			
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(b) (No change.)

Helpful Information

- A ~~person~~ caregiver may not administer any form of emergency behavior intervention until ~~his~~the caregiver's pre-service training is complete, except the short personal restraint of a child. §748.2453 requires that only a caregiver qualified in emergency behavior intervention may administer emergency behavior interventions, except a short personal restraint. A ~~person~~ caregiver is not considered qualified until/unless ~~his~~the caregiver's training is complete.
- Caregivers exclusively caring for children receiving treatment services for primary medical needs are exempt from pre-service emergency behavior intervention training requirements.

§748.868. Must I provide pre-service training regarding normalcy to a child-care administrator, professional level service provider, treatment director, or case manager who was previously employed by a residential child-care operation?

(a) A child-care administrator, professional level service provider, treatment director, or case manager is exempt from completing the pre-service training regarding normalcy if the person:

(1) Has been employed by a residential child-care operation during the past 12 months;

(2) Has received training during the past 12 months on normalcy; and

(3) Can document that the training has been received.

(b) You must document the exemption factors in the appropriate personnel record.

Subchapter F, Training and Professional Development

Division 4, General Pre-Service Training and Pre-Service Training Regarding Normalcy

§748.881. What curriculum components must be included in the general pre-service training?

The general pre-service training curriculum must include the following components:

(1) Topics appropriate to the needs of children for whom the caregiver will be providing care, such as developmental stages of children, fostering children's self-esteem, constructive guidance and discipline of children, water safety, strategies and techniques for monitoring and working with these children, and age-appropriate activities for the children;

(2) Measures to prevent, identify, treat, and report suspected occurrences of child abuse (including sexual abuse), neglect, and exploitation;

- (3) Procedures to follow in emergencies, such as weather-related emergencies, volatile persons, and severe injury or illness of a child or adult;
- (4) Preventing the spread of communicable diseases; **and**
- (5) The location and use of fire extinguishers and first-aid equipment;
- (6) Trauma informed care; and
- (7) Normalcy.

NEW §748.882. What curriculum components must be included in the pre-service training regarding normalcy?

The pre-service training regarding normalcy must include the following components:

- (1) A discussion of the definitions of normalcy and the reasonable and prudent parent standard;
- (2) The developmental stages of children, including a discussion of the cognitive, social, emotional, and physical development of children;
- (3) Age appropriate activities for children, including unsupervised childhood activities;
- (4) The benefits of childhood activities to a child's well-being, mental health, and social, emotional, and developmental growth;
- (5) How to apply the reasonable and prudent parent standard to make decisions;
and
- (6) The child's and the caregiver's responsibilities when participating in childhood activities.

Helpful Information

A caregiver's specific responsibilities for a child that participates in unsupervised activities are listed at §748.685(d) of this title (relating to What responsibilities does a caregiver have when supervising a child or children?).

*Subchapter F, Training and Professional Development
Division 6, Annual Training*

§748.931. What are the annual training requirements for caregivers and employees?

(a) Caregivers and employees must complete the following training hours:

Who is required to receive the annual training?	How many hours of annual training are needed required?
(1) Caregivers where an operation has less than 25 children in care that are	(A) 20 hours. (B) Of the 20 hours, <u>the training must include:</u> <u>(i) Two hours of training specific to trauma</u>

<p>receiving treatment services and less than 30% of their total population of children in care are receiving treatment services</p>	<p><u>informed care</u>;</p> <p><u>(ii) Two hours of training specific to normalcy</u>;</p> <p>(iii) , every six months a caregiver must complete at least four <u>Four</u> hours of training, <u>every six months</u>, specifically related to the emergency behavior intervention techniques that you allow. The caregiver must have this training within 180 days from the date that he <u>the caregiver</u> last received such training; <u>and</u></p> <p>(iv) ,</p> <p>(C) The 20 hours must include two <u>Two</u> hours of transportation safety training if the caregiver transports a child in care whose chronological or developmental age is younger than nine years old.</p>
<p>(2) Caregivers where an operation has 25 or more children in care that are receiving treatment services or 30% or more of their total population of children in care are receiving treatment services</p>	<p>(A) 50 hours.</p> <p>(B) Of the 50 hours, <u>the training must include</u>:</p> <p><u>(i) Two hours of training specific to trauma informed care</u>;</p> <p><u>(ii) Two hours of training specific to normalcy</u>;</p> <p><u>and</u></p> <p>(iii) , every six months a caregiver must complete at least four <u>Four</u> hours of training, <u>every six months</u>, specifically related to the emergency behavior intervention techniques that you allow. The caregiver must have this training within 180 days from the date that he <u>the caregiver</u> last received such training; <u>and</u></p> <p>(iv) ,</p> <p>(C) The 50 hours must include two <u>Two</u> hours of transportation safety training if the caregiver transports a child in care whose chronological or developmental age is younger than nine years old.</p>
<p>(3) Caregivers in a cottage home</p>	<p>(A) 20 hours.</p> <p>(B) Of the 20 hours, <u>the training must include</u>:</p> <p><u>(i) Two hours of training specific to trauma informed care</u>;</p> <p><u>(ii) Two hours of training specific to normalcy</u>;</p> <p><u>and</u></p> <p>(iii) , a caregiver must complete at least f <u>Four</u> hours of training annually-specifically related to the emergency behavior intervention techniques that you allow. The caregiver must have this training within 12 months from the date that he <u>the caregiver</u> last received such training; <u>and</u></p> <p>(iv) ,</p> <p>(C) The 20 hours must include two <u>Two</u> hours of</p>

	<p>transportation safety training if the caregiver transports a child in care whose chronological or developmental age is younger than nine years old.</p>
<p>(4) Child-care administrators, professional level service providers, treatment directors, and case managers who hold a relevant professional license</p>	<p>(A) 15 hours, however, annual training hours used to maintain a person's relevant professional license may be used to complete these hours.</p> <p><u>(B) Of the 15 hours, the training must include:</u></p> <p><u>(i) Two hours of training on normalcy if the person is a designated person that makes decisions regarding any child's participation in childhood activities; and</u></p> <p><u>(ii) The 15 hours must include two Two hours of transportation safety training if the person transports a child in care whose chronological or developmental age is younger than nine years old.</u></p> <p><u>(C) Annual training hours used to maintain a person's relevant professional license may be used to complete these hours, as long as they include the necessary components of subsection (B) or those components are completed separately.</u></p> <p><u>(B)D</u> There are no annual training requirements for emergency behavior intervention. However, if there is a substantial change in techniques, types of intervention, or operation policies regarding emergency behavior intervention, then the staff must be re-trained in emergency behavior intervention.</p>
<p>(5) Professional level service providers, treatment directors, and case managers who do not hold a relevant professional license</p>	<p>(A) 20 hours.</p> <p><u>(B) Of the 20 hours, the training must include:</u></p> <p><u>(i) Two hours of training specific to trauma informed care;</u></p> <p><u>(ii) Two hours of training specific to normalcy; and</u></p> <p><u>(iii) , which must include two Two hours of transportation safety training if the person transports a child in care whose chronological or developmental age is younger than nine years old.</u></p> <p><u>(B)C</u> There are no annual training requirements for emergency behavior intervention. However, if there is a substantial change in techniques, types of intervention, or operation policies regarding emergency behavior intervention, then the staff must be re-trained in emergency behavior intervention.</p>

(b) (No change.)

NEW §748.944. What curriculum components must be included in the annual normalcy training?

(a) The annual training regarding normalcy must include the curriculum components covered in the pre-service training regarding normalcy, see §748.882 of this title (relating to What curriculum components must be included in the pre-service training regarding normalcy?).

(b) Subsequent annual training regarding normalcy should further develop and refine an employee's knowledge and understanding of normalcy and how it should be implemented.

Subchapter G, Child/Caregiver Ratios

§748.1003. For purposes of the child/caregiver ratio, how many children can a single caregiver care for during the children's waking hours?

(a) - (c) (No change.)

~~(d) A child may be away from the operation and caregivers in order to participate in an approved unsupervised activity as outlined in §748.685(d) of this title (relating to What responsibilities does a caregiver have when supervising a child or children?).~~ A child does not count in the child/caregiver ratio while participating in an approved unsupervised childhood activity.

*Subchapter Admission, Service Planning, and Discharge
Division 4, Service Plans*

§748.1339. Who must be involved in developing an initial service plan?

(a) A service planning team must develop the service plan. The team must consist of:

(1) At least one of the child's current caregivers;

(2) A person designated to make decisions regarding a child's participation in childhood activities; and

~~(23)~~ At least one professional level service provider who provides direct services to the child.

(b) (No change.)

(c) The child, ~~as appropriate~~ if verbal and developmentally able to participate, and the parents must be invited to a service planning ~~the~~ meeting and should participate and provide input into the development of ~~to develop~~ the service plan, including discussions regarding the child's participation in childhood activities.

*Subchapter V, Additional Requirements for Operations that Provide Trafficking Services
Division 5, Child/Caregiver Ratios*

§748.4701. For purposes of the child/caregiver ratio, how many children can a single caregiver care for during the children's waking hours?

(a) (No change.)

(b) A child does not count in the child/caregiver ratio while the child is away from the operation participating in an approved unsupervised childhood activity, ~~as outlined in §748.685(d) of this title (relating to What responsibilities does a caregiver have when supervising a child or children?).~~