

**Normalcy Rule Changes
FINAL DRAFT
December 1, 2016**

Chapter 749 Minimum Standards for Child-Placing Agencies

Subchapter F, Training and Professional Development

Division 3, Pre-Service Experience and Training

§749.863. 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 timeframe:

| Who is required to receive the training? | What type of pre-service training? | How many hours of training are needed required? | When must the training be completed? |
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| (1) All caregivers | General pre-service training | 8 hours | Before this person can be the only caregiver responsible for a child in care |
| <u>(2) Foster parents</u> | <u>Pre-service training regarding normalcy</u> | <u>2 hours</u> | <u>Before this foster parent can be responsible for a child in care</u> |
| <u>(3) Child-placing agency administrators, treatment directors, child placement staff, child placement management staff, and full-time professional service providers, except those exclusively assigned to provide adoption services</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, and within 90 days of beginning job duties</u> |
| (2) (4) Caregivers caring for children receiving only child care services or programmatic | 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 |

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| services | | | in care, and all 8 hours of training within 90 days of being responsible for a child in care |
| (35) Caregivers caring for children receiving treatment services for emotional disorders, <u>intellectual disabilities</u> , <u>mental retardation</u> , or <u>autism spectrum disorder</u> , <u>pervasive developmental disorders</u> | Pre-service training regarding emergency behavior intervention | 16 hours, however, if your agency 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 |
| (46) Child-placing agency administrators, treatment directors, child placement staff, child placement management staff, and full-time professional service providers, except those exclusively assigned to provide adoption services, or those exclusively assigned to children receiving treatment services for primary medical needs | Pre-service training regarding emergency behavior intervention | 8 hours | All 8 hours of training within 90 days of beginning job duties |

~~(b) Caregivers exclusively caring for children receiving treatment services for primary medical needs are exempt from pre-service emergency behavior intervention training requirements.~~

~~(c)~~ You must document the completion of each training requirement in the appropriate personnel record.

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. §749.2053 requires that only a caregiver qualified in emergency behavior intervention may administer emergency behavior interventions, except 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.

§749.868. Must I provide pre-service training regarding normalcy to a child-placing agency administrator, treatment director, child placement staff, child placement management staff, or full-time professional service provider who was previously employed by a residential child-care operation?

(a) A child-placing agency administrator, treatment director, child placement staff, child placement management staff, or full-time professional level service provider 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*

NEW §749.882. 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

§749.931. 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 <u>required</u>? |
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| (1) Caregivers caring for children receiving only child-care services, programmatic services, and/or treatment services for primary medical needs | <p>(A) For homes with two foster parents, the foster parents must receive a total of 20 hours, of annual training, of which <u>Of the 20 hours, the training must include:</u></p> <ul style="list-style-type: none"> (i) four <u>Four</u> hours for each foster parent must be on <u>of</u> training specific to the emergency behavior interventions allowed by your agency; (ii) , and one <u>One</u> hour for each foster parent must be on <u>of</u> training specific to trauma informed care; (iii) Two hours for each foster parent of training specific to normalcy; and (iv) - <u>The appropriate distribution of the remaining 4</u> 6 <u>hours must be distributed appropriately,</u> and each foster parent must receive some amount of the remaining training <u>hours.</u> <p>(B) For all other caregivers, <u>including a foster parent in a one-parent foster home, each caregiver must receive</u> 20 hours, of <u>annual training, of which</u> <u>Of the 20 hours, the training must include:</u></p> <ul style="list-style-type: none"> (i) four <u>Four</u> hours must be on <u>of</u> training specific to the emergency behavior interventions allowed by your agency; (ii) , and two <u>Two</u> hours must be on <u>of</u> training specific to trauma informed care; <u>and</u> (iii) Two hours of training specific to normalcy. <p>(C) For foster group homes only, each person's annual <u>required</u> training <u>hours</u> must <u>also</u> include two hours of transportation safety training if the person transports a child in care whose chronological</p> |

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| | <p>or developmental age is younger than nine years old. (D) Caregivers exclusively caring for children receiving treatment services for primary medical needs are exempt from emergency behavior intervention training requirements.</p> |
| <p>(2) Caregivers caring for children receiving treatment services for emotional disorders, intellectual disabilities, or <u>autism spectrum disorder</u> pervasive developmental disorders</p> | <p>(A) For homes with two foster parents, the foster parents must receive a total of 50 hours. of annual training, of which <u>Of the 50 hours, the training must include:</u> (i) eight <u>Eight</u> hours for each foster parent must be on <u>of</u> training specific to the emergency behavior interventions allowed by your agency; (ii) , and two <u>Two</u> hours for each foster parent must be on <u>of</u> training specific to trauma informed care; (iii) <u>Two hours for each foster parent of training specific to normalcy; and</u> (iv) <u>The appropriate distribution of the</u> remaining 30 <u>26</u> hours must be distributed appropriately, and each foster parent must receive some amount of the remaining training <u>hours</u>. (B) For homes with one foster parent, 30 hours, of which eight hours must be on training specific to the emergency behavior interventions allowed by your agency, and two hours must be on training specific to trauma informed care. (C) All <u>For all</u> other caregivers, <u>including a foster parent in a one-parent foster home</u>, 30 hours. <u>Of the 30 hours, the training must include, of which:</u> (i) eight <u>Eight</u> hours must be on <u>of</u> training specific to the emergency behavior interventions allowed by your agency; (ii) , and two <u>Two</u> hours must be on <u>of</u> training specific to trauma informed care; <u>and</u> (iii) <u>Two hours of training specific to normalcy.</u> (D) C For foster group homes only, each person's annual <u>required</u> training <u>hours</u> must <u>also</u> include 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.</p> |
| <p>(3) Child placement staff with less than one year of child-placing experience</p> | <p>(A) 30 hours. for the initial year, of which <u>Of the 30 hours, the training must include:</u> (i) <u>One hour of training on prevention, recognition, and reporting on child abuse and neglect;</u> (ii) two <u>Two</u> hours must be on <u>of</u> training specific to trauma informed care; (iii) <u>Two hours of training specific to normalcy; and</u> (iv) <u>Two hours of transportation safety training if the person transports a child placed in a foster group home whose chronological or developmental age is younger than nine years old.</u> (B) 20 hours after the initial year, of which two hours must be on</p> |

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| | <p>training specific to trauma informed care; and</p> <p>(C) There are no annual training requirements for emergency behavior interventions. However, if there is a substantial change in techniques, types of intervention, or agency policies regarding emergency behavior intervention, then the staff must be re-trained.</p> <p>(D) Annual training must include two hours of transportation safety training if the person transports a child placed in a foster group home whose chronological or developmental age is younger than nine years old.</p> |
| <p>(4) Child placement staff with at least one year of child-placing experience <u>and all child placement management staff, except those exclusively assigned to provide adoption services</u></p> | <p><u>(A) 20 hours. Of the 20 hours, the training must include, of which:</u></p> <p><u>(i) One hour of training on prevention, recognition, and reporting on child abuse and neglect;</u></p> <p><u>(ii) twoTwo hours must be on</u>of training specific to trauma informed care;</p> <p><u>(iii) Two hours of training specific to normalcy; and</u></p> <p><u>(iv) , and twoTwo hours of transportation safety training if the person transports a child placed in a foster group home whose chronological or developmental age is younger than nine years old.</u></p> <p><u>(B)</u> There are no annual training requirements for emergency behavior interventions. However, if there is a substantial change in techniques, types of intervention, or agency policies regarding emergency behavior intervention, then the staff must be re-trained.</p> |
| <p>(5) Child placement management staff</p> | <p>20 hours, of which two hours must be on training specific to trauma informed care, and two hours of transportation safety training if the person transports a child placed in a foster group home whose chronological or developmental age is younger than nine years old. There are no annual training requirements for emergency behavior interventions. However, if there is a substantial change in techniques, types of intervention, or agency policies regarding emergency behavior intervention, then the staff must be re-trained.</p> |
| <p>(6) Child-placing agency administrators, executive directors, treatment directors, and full-time professional service providers 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. Of the 15 hours, the training must include:</p> <p><u>(i) One hour of training on prevention, recognition, and reporting on child abuse and neglect. This requirement does not apply to executive directors; and</u></p> <p><u>(ii) Two hours of transportation safety training if the person transports a child placed in a foster group home whose chronological or developmental age is younger than nine years old.</u></p> <p><u>(B) 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 (A) or those components are completed separately.</u></p> |

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| | <p><u>(C)</u> There are no annual training requirements for emergency behavior interventions. However, if there is a substantial change in techniques, types of intervention, or agency policies regarding emergency behavior intervention, then the staff must be re-trained.</p> <p>(C) Annual training must include two hours of transportation safety training if the person transports a child placed in a foster group home whose chronological or developmental age is younger than nine years old.</p> |
| <p>(76) Executive directors, treatment directors, and full-time professional service providers who do not hold a relevant professional license</p> | <p><u>(A)</u> 20 hours. <u>Of the 20 hours, the training must include, of which:</u></p> <p><u>(i) One hour of training on prevention, recognition, and reporting on child abuse and neglect. This requirement does not apply to executive directors;</u></p> <p><u>(ii) two Two hours must be on of training specific to trauma informed care;</u></p> <p><u>(iii) Two hours of training specific to normalcy; ,and</u></p> <p><u>(iv) two Two hours of transportation safety training if the person transports a child placed in a foster group home whose chronological or developmental age is younger than nine years old.</u></p> <p><u>(B)</u> There are no annual training requirements for emergency behavior interventions. However, if there is a substantial change in techniques, types of intervention, or agency policies regarding emergency behavior intervention, then the staff must be re-trained.</p> |
| <p>(8) Child placing agency administrators, child placement staff, child placement management staff, treatment directors, and full-time professional service providers</p> | <p>At least one hour of annual training must focus on prevention, recognition, and reporting of child abuse and neglect, including:</p> <p>(A) Factors indicating a child is at risk for abuse or neglect;</p> <p>(B) Warning signs indicating a child may be a victim of abuse or neglect;</p> <p>(C) Internal procedures for reporting child abuse or neglect; and</p> <p>(D) Community organizations that have training programs available to child placing agency staff members, children, and parents.</p> |

(b) (No change.)

NEW §749.943. 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 §749.882 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.

NEW §749.944. What curriculum components must be included in the annual training related to prevention, recognition, and reporting on child abuse and neglect?

The training related to prevention, recognition, and reporting on child abuse and neglect must include the following components:

- (1) The factors indicating a child is at risk for abuse or neglect;
- (2) The warning signs indicating a child may be a victim of abuse or neglect;
- (3) The procedures for reporting child abuse or neglect; and
- (4) A list of community organizations that have training programs available to child-placing agency staff members, children, and parents.

*Subchapter I, Foster Care Services: Service Planning, Discharge
Division 1, Service Plans*

§749.1311. Who must be involved in developing an initial service plan?

(a) (No change.)

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

*Subchapter M, Foster Homes: Screenings and Verifications
Division 5, Capacity and Child/Caregiver Ratio*

§749.2563. How do I determine child/caregiver ratio for a foster group home?

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

(c) ~~A child may be away from the foster home and caregivers in order to participate in an approved unsupervised activity as outlined in §749.2593(d) of this title (relating to What responsibilities does a caregiver have when supervising a child?).~~ A child does not count in the child/caregiver ratio while participating in an approved unsupervised childhood activity.

*Subchapter M, Foster Homes: Screenings and Verifications
Division 6, Supervision*

§749.2593. What responsibilities does a caregiver have when supervising a child?

- (a) The caregiver is responsible for:
- (1) Knowing which children they are responsible for;
 - (2) Being aware of and accountable for each child's on-going activity;
 - (3) Providing the level of supervision necessary to ensure each child's safety and well-being, including auditory and/or visual awareness of each child's on-going activity as appropriate;
 - (4) Being able to intervene when necessary to ensure each child's safety; and
 - (5) Not performing tasks that clearly impede the caregiver's ability to supervise and interact with the children while being responsible for the supervision of the children and meet any service-planning requirement regarding supervision of any child.

(b) In deciding how closely to supervise a child, the caregiver must take into account:

- (1) The child's age;
- (2) The child's individual differences and abilities;
- (3) The indoor and outdoor layout of the home;
- (4) Surrounding circumstances, hazards, and risks; and
- (5) The child's physical, mental, emotional, and social needs.

(c) Caregivers counted in the child/caregiver ratio 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) Children in care must participate in normal childhood activities, including unsupervised activities, as much as possible. Service planning meetings, and any decision making regarding the child's need for supervision, must include discussions and consideration of normalcy for the child. Moreover, the child's service plan must specify the general parameters within which the foster parent is empowered to make decisions regarding childhood activities. The child may participate in unsupervised activities approved by the foster parent in accordance with subsection (e) of this section, and §749.2594 of this title (relating to Who should make the decision regarding a foster child's participation in childhood activities?).~~

~~(e) Foster parents should use a "reasonable and prudent parent" standard to decide whether a child may participate in an unsupervised activity:~~

~~(1) In making this decision a "reasonable and prudent parent" standard includes the assessment of the:~~

- ~~(A) Child's age;~~
- ~~(B) Child's abilities;~~
- ~~(C) Child's physical, mental, emotional, and social needs;~~
- ~~(D) Whether the activity is a normal childhood activity;~~
- ~~(E) Desires of the child;~~
- ~~(F) Surrounding circumstances, hazards, and risks of the activity;~~

- ~~(G) Other adults or children involved in the activity;~~
~~(H) Outside supervision of the activity, if available and appropriate; and~~
~~(I) Supervision instructions in the child's service plan.~~
~~(2) When a child participates in an unsupervised childhood activity, the caregiver must:~~
 ~~(A1) Know where the child is scheduled to be;~~
 ~~(B2) Give the child a specific time to return to the foster home or the caregiver's location;~~
 ~~(C3) 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~~
 ~~(D5) Be available to respond if the child contacts the caregiver and needs immediate assistance.~~
~~(fe) Caregivers that supervise a child receiving treatment services must maintain progress notes for the child, at a frequency determined by the service planning team. Caregivers must sign and date each progress note at the time the progress note is completed. Progress notes must be available for Licensing staff to review.~~

~~**DELETE §749.2594. Who should make the decision regarding a foster child's participation in childhood activities?**~~

- ~~(a) Except as otherwise provided in this section, the foster parents should make decisions regarding a foster child's participation in childhood activities, whether supervised or unsupervised. The decision should be made as any other reasonable and prudent parent would make the same decision for a child of similar chronological and developmental age with similar needs and abilities. Childhood activities include family activities, extracurricular activities, social activities in and out of school, and employment opportunities.~~
~~(b) For a child in DFPS conservatorship, if the child's managing conservator provides notice in advance that the child is prohibited from participating in a specific activity, the foster parents must follow the conservator's decision.~~
~~(c) For private placements, the foster parents must follow the parent's decision regarding childhood activities.~~

Subchapter M, Foster Homes: Screenings and Verifications

NEW Division 7, Normalcy

NEW §749.2601. What is "normalcy"?

Normalcy is the ability of a child in care to live as normal a life as possible, including:

- (1) 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; and
(2) Having normal interaction and experiences within a foster family and participating in foster family activities.

NEW §749.2603. 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 §749.2605. 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 foster parent must take into consideration the following when deciding whether a child may participate in normal 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.

(c) There is a presumption that a reasonable and prudent parent would include the child in normal interactions and experiences within the foster family and allow the child to participate in foster family activities, to the same extent as a similarly situated child born to the family.

NEW §749.2607. Who makes the decision regarding a foster child's participation in childhood activities?

(a) Except as otherwise provided in subsection (c) of this section, a foster parent makes decisions regarding a child's participation in childhood activities.

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

(c) The service plan may not require the prior approval of the parent before the foster parent may consent to a foster 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, the foster parent must follow the parent's decision.

Subchapter M, Foster Homes: Screenings and Verifications

Division ~~7~~8, Respite Child Care Services

[Need to renumber Division 7 and make it Division 8. The Rule Unit will send to the *Texas Register* notification of this change prior to publication of the rules.]

Subchapter M, Foster Homes: Screenings and Verifications

Division ~~8~~9, Agency - Foster Family Relationships

[Need to renumber Division 8 and make it Division 9. The Rules Unit will send to the *Texas Register* notification of this change prior to publication of the rules.]