

Subchapter D, Reports and Record Keeping

Division 1, Reporting Serious Incidents and Other Occurrences

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

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June 2020

These terms have the following meanings in this subchapter:

- (1) Serious incident--A non-routine occurrence that has or may have dangerous or significant consequences for the care, supervision, or treatment of a child. The different types of serious incidents are noted in §749.503 of this division (relating to When must I report and document a serious incident?).
- (2) Triggered review of a child's unauthorized absences--A review of a specific child's pattern of unauthorized absences when the child has had three unauthorized absences within a 60-day timeframe.
- (3) Unauthorized absence--A child is absent from a foster home without permission from the foster parent, or other temporary caregiver, and cannot be located. This includes when an unauthorized person has removed the child from the foster home.

Helpful Information

Regarding paragraph (3): Child-placing agencies (CPA) should use their best judgment based on the totality of the circumstances on a case by case basis to determine if there is an unauthorized absence. Example 1: if a teenager is routinely late in returning to a foster home from an extracurricular activity, the CPA would likely take the child's routine into account when assessing the possibility of an unauthorized absence. Example 2: If a teenager is on an unsupervised activity and calls and informs the foster parent that he/she will be late in returning to the home, this situation is not likely to be an unauthorized absence.

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

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Division 1, Reporting Serious Incidents and Other Occurrences

April 2021

(a) You must report and document the following types of serious incidents involving a child in your care. The reports must be made to the following entities, and the reporting and documenting must be within the specified time frames:

Figure: 26 TAC §749.503(a)

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law Enforcement? (ii) If so, when?
1) A child dies while in your care.	(A)(i) YES (A)(ii) Within 2 hours after the child's death. [Medium-High]	(B)(i) YES (B)(ii) Within 2 hours after the child's death. [Medium-High]	(C)(i) YES (C)(ii) Immediately, but no later than 1 hour after the child's death. [Medium-High]
(2) A substantial physical injury or critical illness that a reasonable person would conclude needs treatment by a medical professional or hospitalization.	(A)(i) YES (A)(ii) Report as soon as possible, but no later than 24 hours after the incident or occurrence. [Medium-High]	(B)(i) YES (B)(ii) Immediately after ensuring the safety of the child [Medium-High]	(C)(i) NO (C)(ii) Not Applicable.

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law Enforcement? (ii) If so, when?
<p>(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.</p>	<p>(A)(i) YES, including whether you plan to move the child until the investigation is complete.</p> <p>(A)(ii) As soon as you become aware of it.</p> <p>[Medium-High]</p>	<p>(B)(i) YES, including whether you plan to move the child until the investigation is complete.</p> <p>(B)(ii) Immediately after ensuring the safety of the child.</p> <p>[Medium-High]</p>	<p>(C)(i) NO</p> <p>(C)(ii) Not applicable.</p>
<p>(4) Physical abuse committed by a child against another child. For the purpose of this subsection, physical abuse occurs when there is substantial physical injury, excluding any accident; or failure to make a reasonable effort to prevent an action by another person that results in substantial physical injury to the child.</p>	<p>(A)(i) YES</p> <p>(A)(ii) As soon as you become aware of it.</p> <p>[Medium-High]</p>	<p>(B)(i) YES</p> <p>(B)(ii) As soon as you become aware of it.</p> <p>[Medium]</p>	<p>(C)(i) NO</p> <p>(C)(ii) Not applicable.</p>

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law Enforcement? (ii) If so, when?
<p>(5) Sexual abuse committed by a child against another child. For the purpose of this subsection, sexual abuse is:</p> <p>conduct harmful to a child’s mental, emotional or physical welfare, including nonconsensual sexual activity between children of any age, and consensual sexual activity between children with more than 24 months difference in age or when there is a significant difference in the developmental level of the children; or failure to make a reasonable effort to prevent sexual conduct harmful to a child.</p>	<p>(A)(i) YES</p> <p>(A)(ii) As soon as you become aware of it.</p> <p>[Medium-High]</p>	<p>(B)(i) YES</p> <p>(B)(ii) As soon as you become aware of it.</p> <p>[Medium]</p>	<p>(C)(i) NO</p> <p>(C)(ii) Not applicable.</p>

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law Enforcement? (ii) If so, when?
<p>(6) 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; or when law enforcement responds to an alleged incident at the foster home.</p>	<p>(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after you become aware of it. [Medium]</p>	<p>(B)(i) YES (B)(ii) As soon as you become aware of it. [Medium]</p>	<p>(C)(i) NO (C)(ii) Not applicable.</p>
<p>(7) The unauthorized absence of a child who is developmentally or chronologically under 6 years old.</p>	<p>(A)(i) YES (A)(ii) Within 2 hours of notifying law enforcement. [Medium-High]</p>	<p>(B)(i) YES (B)(ii) Within 2 hours of notifying law enforcement. [Medium]</p>	<p>(C)(i) YES (C)(ii) Immediately upon determining the child is not on the premises and the child is still missing. [Medium-High]</p>
<p>(8) The unauthorized absence of a child who is developmentally or chronologically 6 to 12 years old.</p>	<p>(A)(i) YES (A)(ii) Within 2 hours of notifying law enforcement, if the child is still missing. [Medium-High]</p>	<p>(B)(i) YES (B)(ii) Within 2 hours of determining the child is not on the premises, if the child is still missing. [Medium]</p>	<p>(C)(i) YES (C)(ii) Within 2 hours of determining the child is not on the premises, if the child is still missing. [Medium-High]</p>

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law Enforcement? (ii) If so, when?
<p>(9) The unauthorized absence of a child who is 13 years or older.</p>	<p>(A)(i) YES</p> <p>(A)(ii) No later than 6 hours from when the child's absence is discovered and the child is still missing. However, you must report the child's absence immediately if the child has previously been alleged or determined to be a trafficking victim, or you believe the child has been abducted or has no intention of returning to the foster home.</p> <p>[Medium]</p>	<p>(B)(i) YES</p> <p>(B)(ii) No later than 6 hours from when the child's absence is discovered and the child is still missing. However, you must report the child's absence immediately if the child has previously been alleged or determined to be a trafficking victim, or you believe the child has been abducted or has no intention of returning to the foster home.</p> <p>[Medium]</p>	<p>(C)(i) YES</p> <p>(C)(ii) No later than 6 hours from when the child's absence is discovered and the child is still missing. However, you must report the child's absence immediately if the child has previously been alleged or determined to be a trafficking victim, or you believe the child has been abducted or has no intention of returning to the foster home.</p> <p>[Medium]</p>

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law Enforcement? (ii) If so, when?
<p>(10) A child in your care contracts a communicable disease that the law requires you to report to the Department of State Health Services (DSHS) as specified in 25 TAC Chapter 97, Subchapter A, (relating to Control of Communicable Diseases).</p>	<p>(A)(i) YES, unless the information is confidential.</p> <p>(A)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease.</p> <p>[Medium]</p>	<p>(B)(i) YES, if their child has contracted the communicable disease or has been exposed to it.</p> <p>(B)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease.</p> <p>[Medium]</p>	<p>(C)(i) NO</p> <p>(C)(ii) Not applicable.</p>
<p>(11) A suicide attempt by a child.</p>	<p>(A)(i) YES</p> <p>(A)(ii) As soon as you become aware of the incident.</p> <p>[Medium-High]</p>	<p>(B)(i) YES</p> <p>(B)(ii) As soon as you become aware of the incident.</p> <p>[Medium]</p>	<p>(C)(i) NO</p> <p>(C)(ii) Not applicable.</p>

(b) If there is a medically pertinent incident, such as a seizure, that does not rise to the level of a serious incident, you do not have to report the incident but you must document the incident in the same manner as a serious incident, as described in §749.511 of this division (relating to How must I document a serious incident?) [Medium].

(c) You must document an unauthorized absence that does not meet the reporting time requirements defined in subsection (a)(7) - (9) of this section within 24 hours after you become aware of the unauthorized absence. You must document the absence [Medium]:

(1) In the same manner as for a serious incident, as described in §749.511 of this division; and

(2) Complete an addendum to the serious incident report to finalize the documentation requirements, if the child returns to a foster home after 24 hours.

(d) If there is a serious incident involving an adult resident, you do not have to report the incident to Licensing, but you must document the incident in the same manner as a serious incident. You do have to report the incident to [Medium]:

- (1) Law enforcement, as outlined in the chart above;
- (2) The parents, if the adult resident is not capable of making decisions about the resident's own care; and
- (3) Adult Protective Services through the Texas Abuse and Neglect Hotline if there is reason to believe the adult resident has been abused, neglected or exploited.

(e) You must report and document the following types of serious incidents involving your agency, one of your foster homes, an employee, professional level service provider, contract staff, or a volunteer to the following entities within the specified time frame:

Figure: 26 TAC §749.503(e)

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?
(1) Any incident that renders all or part of your agency 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. [Medium]	(B)(i) YES (B)(ii) As soon as possible, but no later than 24 hours after the incident. [Medium]

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?
(2) A disaster or emergency that requires a foster home to close.	(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after the incident. [Medium]	(B)(i) YES (B)(ii) As soon as possible, but no later than 24 hours after the incident. [Medium]
(3) An adult who has contact with a child in care contracts a communicable disease noted in 25 TAC Chapter 97, Subchapter A, (relating to Control of Communicable Diseases).	(A)(i) YES, unless the information is confidential. (A)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease. [Medium]	(B)(i) YES, if their child has contracted the communicable disease or has been exposed to it. (B)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease. [Medium]
(4) An allegation that a person under the auspices of your agency who directly cares for or has access to a child in the setting has abused drugs within the past seven days.	(A)(i) YES (A)(ii) Within 24 hours after learning of the allegation. [Medium]	(B)(i) NO (B)(ii) Not applicable.
(5) An investigation of abuse or neglect by an entity (other than Licensing) of an employee, professional level service provider, foster parent, contract staff, volunteer, or other adult at the agency.	(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after you become aware of the investigation. [Medium]	(B)(i) NO (B)(ii) Not applicable.

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?
<p>(6) An arrest, indictment, or a county or district attorney accepts an "Information" regarding an official complaint against an employee, professional level service provider, foster parent, contract staff, volunteer, or other adult at the agency alleging commission of any crime as provided in §745.661 of this title (relating to What types of criminal convictions may affect a subject's ability to be present at an operation?); or when law enforcement responds to an alleged incident at the foster home.</p>	<p>(A)(i) YES</p> <p>(A)(ii) As soon as possible, but no later than 24 hours after you become aware of the situation.</p> <p>[Medium]</p>	<p>(B)(i) NO</p> <p>(B)(ii) Not applicable.</p>

Helpful Information

Regarding subsection (a)(2), not every trip to a hospital or emergency clinic must be reported as a serious incident. Only those incidents involving a "substantial physical injury or critical illness" must be reported and documented as a serious incident. The definition of "substantial physical injury" contains some examples of reportable serious incidents. Visits to the emergency room or emergency clinic (that did not result in hospitalization) for a common illness such as the flu, for a chronic illness such as an asthma attack, or for a routine medical exam would not warrant reporting as a serious incident.

Also, it is the nature of the injury or illness that determines whether it is reportable as a serious incident, not the venue in which it is treated. Taking a child to the emergency clinic or doctor's office for stitches is still reportable as a serious incident, even though the treatment did not occur at an emergency room or hospital.

Regarding children receiving treatment services for primary medical needs, planned admissions to the hospital are not reportable as serious incidents. If the child sustains a substantial physical injury or contracts a critical illness, a serious incident report is required. However, ongoing treatment for the child's chronic illnesses or conditions is not reportable as a serious incident.

In addition, admission to a psychiatric hospital only warrants a serious incident report if the admission is precipitated by a reportable incident, such as a suicide attempt. The admission itself is not reportable as a serious incident.

§749.505. What constitutes a suicide attempt by a child?

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September 2010

A suicide attempt is a child's attempt to take his own life using means or methods for causing his death, including any act a child commits intending to cause his death, but excluding suicidal gestures where it is clear that the act was unlikely to cause death. Suicidal thoughts are not reportable as a suicide attempt.