

40 Tex. Admin. Code § 9.175

Section 9.175 - Certification Principles: Requirements Related to the Abuse, Neglect, and Exploitation of an Individual

- (a) A program provider must:
- (1) ensure that an individual and LAR are, before or at the time the individual begins receiving an HCS Program service or a CFC service and at least annually thereafter:
 - (A) informed of how to report allegations of abuse, neglect, or exploitation to DFPS and are provided with the toll-free telephone number, 1-800-647-7418, in writing; and
 - (B) educated about protecting the individual from abuse, neglect, and exploitation;
 - (2) ensure that each staff member, service provider, and volunteer are:
 - (A) trained and knowledgeable of:
 - (i) acts that constitute abuse, neglect, and exploitation;
 - (ii) signs and symptoms of abuse, neglect, and exploitation; and
 - (iii) methods to prevent abuse, neglect, and exploitation;
 - (B) instructed to report to DFPS immediately, but not later than one hour after having knowledge or suspicion, that an individual has been or is being abused, neglected, or exploited, by:
 - (i) calling the DFPS Abuse Hotline toll-free telephone number, 1-800-647-7418; or
 - (ii) using the DFPS Abuse Hotline website; and
 - (C) provided with the instructions described in subparagraph (B) of this paragraph in writing; and
 - (3) conduct the activities described in paragraph (2)(A) - (C) of this subsection before a staff member, service provider, or volunteer assumes job duties and at least annually thereafter.
- (b) If a program provider, staff member, service provider, volunteer, or controlling person knows or suspects an individual is being or has been abused, neglected, or exploited, the program provider must report or ensure that the person with knowledge or suspicion reports the allegation of abuse, neglect, or exploitation to DFPS immediately, but not later than one hour after having knowledge or suspicion, by:
- (1) calling the DFPS Abuse Hotline toll-free telephone number, 1-800-647-7418; or
 - (2) using the DFPS Abuse Hotline website.
- (c) If a report required by subsection (b) of this section alleges abuse, neglect, or exploitation by a person who is not a service provider, staff member, volunteer, or controlling person, a program provider must:
- (1) as necessary:

- (A) obtain immediate medical or psychological services for the individual; and
 - (B) assist in obtaining ongoing medical or psychological services for the individual;
- (2) discuss with the individual or LAR alternative residential settings and additional services that may help ensure the individual's safety;
- (3) when taking the actions described in paragraphs (1) and (2) of this subsection, avoid compromising the investigation or further traumatizing the individual; and
- (4) preserve and protect evidence related to the allegation.
- (d) If a report required by subsection (b) of this section alleges abuse, neglect, or exploitation by a service provider, staff member, volunteer, or controlling person; or if a program provider is notified by HHSC of an allegation of abuse, neglect, or exploitation by a service provider, staff member, volunteer, or controlling person, the program provider must:
- (1) as necessary:
 - (A) obtain immediate medical or psychological services for the individual; and
 - (B) assist in obtaining ongoing medical or psychological services for the individual;
 - (2) take actions to secure the safety of the individual, including if necessary, ensuring that the alleged perpetrator does not have contact with the individual or any other individual until HHSC completes the investigation;
 - (3) when taking the actions described in paragraphs (1) and (2) of this subsection, avoid compromising the investigation or further traumatizing the individual;
 - (4) preserve and protect evidence related to the allegation; and
 - (5) notify, as soon as possible, but no later than 24 hours after the program provider reports or is notified of the allegation, the individual, the LAR, and the service coordinator of:
 - (A) the allegation report; and
 - (B) the actions the program provider has taken or will take based on the allegation, the condition of the individual, and the nature and severity of any harm to the individual, including the actions required by paragraph (2) of this subsection.
- (e) During an HHSC investigation of an alleged perpetrator who is a service provider, staff member, volunteer, or controlling person, a program provider must:
- (1) cooperate with the investigation as requested by HHSC, including providing documentation and participating in an interview;
 - (2) provide HHSC access to:
 - (A) sites owned, operated, or controlled by the program provider;

- (B) individuals, service providers, staff members, volunteers, and controlling persons; and
- (C) records pertinent to the investigation of the allegation; and
- (3) ensure that staff members, service providers, volunteers, and controlling persons comply with paragraphs (1) and (2) of this subsection.
- (f) After a program provider receives a final investigative report from HHSC for an investigation described in subsection (e) of this section, the program provider must:
 - (1) if the allegation of abuse, neglect, or exploitation is confirmed by HHSC:
 - (A) review the report, including any concerns and recommendations by HHSC; and
 - (B) take action within the program provider's authority to prevent the reoccurrence of abuse, neglect or exploitation, including disciplinary action against the service provider, staff member, or volunteer confirmed to have committed abuse, neglect, or exploitation;
 - (2) if the allegation of abuse, neglect, or exploitation is unconfirmed, inconclusive, or unfounded:
 - (A) review the report, including any concerns and recommendations by HHSC; and
 - (B) take appropriate action within the program provider's authority, as necessary;
 - (3) immediately, but not later than five calendar days after the date the program provider receives the HHSC final investigative report:
 - (A) notify the individual, the LAR, and the service coordinator of:
 - (i) the investigation finding; and
 - (ii) the action taken by the program provider in response to the HHSC investigation as required by paragraphs (1) and (2) of this subsection; and
 - (B) notify the individual or LAR of:
 - (i) the process to appeal the investigation finding as described in 26 TAC Chapter 711, Subchapter J (relating to Appealing the Investigation Finding); and
 - (ii) the process for requesting a copy of the investigative report from the program provider;
 - (4) within 14 calendar days after the date the program provider receives the final investigative report, complete and send to HHSC the HHSC Notification to Waiver Survey and Certification (WSC) Regarding an Investigation of Abuse, Neglect or Exploitation form; and
 - (5) upon request of the individual or LAR, provide to the individual or LAR a copy of the HHSC final investigative report after removing any information that would reveal the identity of the reporter or of any individual who is not the alleged victim.

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