

**RHODE ISLAND GOVERNMENT REGISTER**  
**PUBLIC NOTICE OF PROPOSED RULEMAKING**

**AGENCY:** Department of Children, Youth and Families

**DIVISION:** Child Protective Services

**RULE IDENTIFIER:** ERLID 1176

**REGULATION TITLE:** Requests for Confidential Info. Received Through the Call Floor

**RULEMAKING ACTION:** Proposed Rulemaking

**TYPE OF FILING:** Repeal

**TIMETABLE FOR ACTION ON THE PROPOSED RULE:**

**Date of Public Notice:** January 10, 2018

**End of Public Comment Period:** February 23, 2018

**SUMMARY OF PROPOSED RULE:** The proposed repeal is filed in conjunction with the proposed adoption of 214-RICR-20-00-1, "Child Protective Services." 214-RICR-20-00-1 will replace several existing Child Protective Services regulations as listed in detail below.

The proposed adopted regulation sets forth the responsibilities of the DCYF for child welfare reports to the hotline, criteria for screening in reports, and cases assigned for an investigation or a family assessment response. This Child Protective Services regulation will replace the previous Child Protective Services rules, which will remain in effect as DCYF Operating Procedures, and are available on the Department's website.

**COMMENTS INVITED:**

All interested parties are invited to submit written or oral comments concerning the proposed regulations by **February 23, 2018** to the address listed below.

**ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:**

All written comments or objections should be sent to, Sarah St. Jacques, DCYF Policy Office, Rhode Island Department of Children, Youth and Families

**Mailing Address:** DCYF, 3rd Floor, 101 Friendship Street, Providence, RI 02903

**Email Address:** [Sarah.StJacques@dcyf.ri.gov](mailto:Sarah.StJacques@dcyf.ri.gov)

**WHERE COMMENTS MAY BE INSPECTED:**

**Mailing Address:** DCYF, 3rd Floor, 101 Friendship Street, Providence, RI 02903

**PUBLIC HEARING INFORMATION:**

In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within ten (10) days of this notice.

**FOR FURTHER INFORMATION CONTACT:**

Sarah St. Jacques, DCYF Policy Office, Rhode Island Department of Children, Youth and Families, 3rd Floor, 101 Friendship Street, Providence, RI 02903 or

[Sarah.StJacques@dcyf.ri.gov](mailto:Sarah.StJacques@dcyf.ri.gov)

## **SUPPLEMENTARY INFORMATION:**

### **Regulatory Analysis Summary and Supporting Documentation:**

There are no new societal costs and benefits in the adoption of this rule.

**Authority for This Rulemaking:** R.I. Gen. Laws §§ 11-5-11, 11-37-6, 14-1-3, 14-1-27, 40-11-2, 40-11-3, 40-11-3.2, 40-11-4, 40-11-5, 40-11-6, 40-11-7, 40-11-12.2, 40-13.2-3.1, 40-72-11, 42-72, 42-72.1-4, 42-72-8, 42-72-14, and Adoption Assistance and Child Welfare Act of 1980, Pub. L. No. 96-272, Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, and Child Abuse Amendments of 1981, Pub. L. No. 98-457.

### **Regulatory Findings:**

In the development of the proposed regulation, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

### **The Proposed Repeal:**

The Department of Children, Youth and Families proposes to adopt 214-RICR-20-00-1 as follows in the concise explanatory statement of proposed non-technical amendments below.

The Department of Children, Youth and Families proposes to repeal the following Child Protective Services regulations and reissue as Department Operating Procedures (DOPs). All DOP's are accessible to the public and may be viewed on the Department's website at: <http://www.dcyf.ri.gov/policyregs/>.

The proposed adoption of 214-RICR-20-00-1, "Child Protective Services" would repeal and supersede the following rules:

- Reporting Child Abuse and/or Neglect 500.0000 ERLID 6615
- Criteria for a Child Protective Services Investigation 500.0010 ERLID 7590
- Response Priorities-Emergency, Immediate, and Routine 500.0015 ERLID 6616
- Information/Referral (I/R) Reports; replaced with Family Assessment Response; 500.0040 ERLID 7958
- **Requests for Confidential Info. Received Through the Call Floor 500.0045 ERLID 1176 (this rulemaking action)**
- Standards for Investigation Child Abuse & Neglect (CA/N) Reports (Levels 1,2,3) 500.0050 ERLID 7589
- Additional Information and Duplicate Reports 500.0055 ERLID 6599
- Processing and Notifications for an Alleged Institutional Abuse/Neglect Case 500.0060 ERLID 6608
- Police Involvement in Child Protective Investigation 500.0065 ERLID 6613
- Removal of a Child from the Home 500.0075 ERLID 6644
- Standards of Proof 500.0080 ERLID 6645
- Letters of Notification 500.0085 ERLID 6610
- Examination of Child by Physician/Nurse Practitioner and/or Investigator 500.0090 ERLID 6604
- Documenting Results of CPS Investigations in RICHIST 500.0095 ERLID 6602
- Runaway Calls 500.0105 ERLID 1188
- Investigative Reports/Record Keeping 500.0110 ERLID 6609
- Drug Use During Pregnancy 500.0125 ERLID 6603
- Safe Haven for Infants Act 500.0130 ERLID 6626

## **SUMMARY OF NON-TECHNICAL CHANGES**

## **PROPOSED REGULATIONS FOR ADOPTION**

214-RICR-20-00-01

Title 214 – DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES  
Chapter 20 – Child Protective Services

Subchapter 00 – N/A

Part 1 – Child Protective Services

### **Section 1.1 Purpose**

No new provisions, language is from existing state statutes and Department policy.

### **1.2 Authority**

No new provisions, existing state statutes.

### **1.3 Application**

New standard language required by the Office of Regulatory Reform.

### **1.4 Severability**

New standard language required by the Office of Regulatory Reform.

### **1.5 Definitions**

New Definitions:

“Commercial Sexual Exploitation of Children (CSEC)” refers to a range of crimes and activities involving the sexual abuse or exploitation of a child for the financial benefit of any person or in exchange for anything of value (including monetary and non-monetary benefits) given or received by any person.

“Severe forms of trafficking in persons means” (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age; or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

“Sex trafficking” means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.

“Standardized screening tool” means an assessment instrument that is developed based on statistical analysis of identifying factors that statistically predict child maltreatment. The assessment tool is utilized to screen reports made to the central intake center for purposes of screening in CPS reports for an investigation or a family assessment response.

“Victim of a severe form of trafficking” means a person subject to an act or practice described in paragraph (J).

*Justification for regulatory change:*

Definitions added to comply with federal provisions of the Preventing Sex Trafficking and Strengthening Families Act, P.L. 113–183

## **1.6 Reporting Child Abuse and Neglect**

Any person who has reasonable cause to know or suspect that any child has been abused or neglected, sex trafficked, commercially sexually exploited, human trafficked, or is a victim of sexual abuse by another child, must report that information to the Department’s Child Protective Services (CPS) Hotline within twenty-four (24) hours.

Any person who has reasonable cause to know or suspect that any child has been the victim of sexual abuse by an employee, agent, contractor, or volunteer of an educational program must report that information to the Hotline within twenty-four (24) hours.

*Justification for regulatory change:*

Language added to comply with federal provisions of the Preventing Sex Trafficking and Strengthening Families Act, P.L. 113–183 and RI State Statute § 40-11-3.3 Duty to report – Sexual abuse of a child in an educational program enacted in 2016

## **1.7 Criteria for Child Protective Services Investigation**

The Department must investigate reports that allege child abuse and/or neglect when reasonable cause to believe that abuse or neglect exists. CA/N reports accepted for investigation must contain the following elements:

1. Allegations of sexual abuse by school personnel; or
2. Allegations of sex trafficking and/or severe forms of trafficking of a child under eighteen (18) or under twenty-one (21) years of age if in Department custody.

For purposes of CA/N reports relating to allegations of sex trafficking and/or severe forms of trafficking, any person (not limited to the parent or other person responsible for the child’s welfare) who is alleged to be responsible for committing or allowing to be committed any act of sex trafficking, commercial sexual exploitation, or human trafficking must be subject to an investigation by the Department to determine if the child is a victim of child abuse or neglect. Any child identified as a victim of sex trafficking or severe forms of trafficking is considered a victim of child abuse and neglect and sexual abuse.

*Justification for regulatory change:*

- Allegations of sexual abuse by school personnel is mandated by Rhode Island State Statute § 40-11-3.3 Duty to report – Sexual abuse of a child in an educational program enacted in 2016
- Allegations of sex trafficking is mandated by the federal Preventing Sex Trafficking and Strengthening Families Act, P.L. 113–183, Approved September 29, 2014

## **1.8 Response Priorities**

Department staff utilize a standardized screening tool to determine the response priority for each report of child abuse or neglect that is screened in for an investigation. Response priorities delineate the time limit for the Department to process the report and for the initiation of an investigation.

Assigned investigations must commence within the timeframe of the designated response priority. For all response priorities below, the investigation is initiated when the CPI makes contact or attempts to contact any party associated with the investigation.

1. Priority 1 (emergency) Response – The CPS report must be processed for case assignment within thirty (30) minutes (~~40 minutes~~) after the call is completed. The CPI must respond to the report within four (4) hours (~~40 minutes~~) of the report being received to CPS.
2. Priority 2 (Immediate) Response – The CPS report must be processed for case assignment within two (2) hours (~~one hour~~) after the call is completed. The CPI must respond to the report within twelve (12) hours (~~within shift~~) of the report being received to CPS.
3. Priority 3 (Routine) Response – The CPS report must be processed for case assignment within four (4) hours (~~one hour~~) after the call is completed. The CPI must respond to the report within forty-eight (48) hours (~~24 hours~~) of the report being received to CPS.
4. Priority 1 response criteria include:
  - a. Child held by police/physician/nurse practitioner on a forty-eight (48) hour hold for DCYF placement. Previously categorized as a Priority 2 (Immediate) response time, moved to now be a Priority 1 (Emergency) Response time.

*Justification for regulatory change:*

Response times have been renamed from Emergency, Immediate and Routine to Priority 1, Priority 2, and Priority 3 to align with standardized terms used by the SDM (Structured Decision Making) model.

Response times have been changed to provide more realistic timeframes and to parallel our sister states' investigatory response times.

## **1.9 Standards for Investigating Child Abuse & Neglect (CA/N) Reports**

All efforts are made to complete each investigation within thirty (30) (ten) days. If an extension of the thirty (30) day timeframe for completion of an investigation is necessary, a supervisor and/or administrator may grant an extension request up to fifteen (15) additional days.

*Justification for regulatory change:*

Timelines have been modified to allow Child Protective Investigators adequate time to complete the investigation in a comprehensive and thorough manner.

## **1.14 Family Assessment Response**

This entire section is new and replaces the Department's previous Information/Referral (I/R) Reports policy: 500.0040.

### *Justification for regulatory change:*

The Department is pleased to announce the development of a Family Assessment Response, a Child Protective Services response to low to moderate risk screened-in reports of child maltreatment that do not meet the statutory criteria for an investigation. The Family Assessment Response will replace the Department's prior categorization of "Information/Referral (I/R)" reports.

The Family Assessment Response, also known as "FAR", provides a comprehensive assessment of child safety, risk of child abuse or neglect, family strengths and need. The FAR is not an investigation, no perpetrator is named and no findings are made.

A family's involvement in the Family Assessment Response is voluntary. The voluntary involvement is critical and opens the door to a partnership between the family and the Department to engage in an assessment of safety, risk, strengths, and needs.

### Guiding Principles of a Family Assessment Response

- Low to moderate risk neglect cases are best served through planning that includes parents as partners.
- Families want safety for their children.
- Families can meet their children's needs with supports and resources.
- Families are better able to care for their children when connections to communities are developed and strengthened.
- Communities want children to be safe and cared for.

The Family Assessment Response supports and enhances the Department's vision of increased family engagement, enhances the practice of solution based casework, assessment of family's needs and strengths, delivery of concrete and supportive services and focuses on child safety.

### Goals of Family Assessment Response

- Provide early intervention to respond to low to moderate risk allegations with the possibility of preventing future high risk or unsafe situations.
- Increase scope of service delivery to provide services and resources for low to moderate risk families. Opportunity to provide services not based on abuse or neglect, but on family need for sustained and supportive parenting of their children.
- Improve Family-Centered Practice by increasing the involvement of the family in assessment and identification of their strengths and needs, and the development of a plan to address issues relating to risk of abuse or neglect.
- Increase resource identification by reviewing service needs and resource availability for immediate and long-term support outside the scope of abuse and neglect.
- Improve engagement and assessment by moving away from incident-based assessments to a comprehensive assessment of the family dynamics, strengths, issues and needs.

# Requests for Confidential Information Received Through the Call Floor

Rhode Island Department of Children, Youth and Families

**Policy: 500.0045**

~~Effective Date: July 7, 1984~~ ~~Revised Date: April 6, 1990~~ ~~Version: 4~~

The Call Floor is the section of the Department of Children, Youth, and Families (DCYF) which receives, screens, and investigates child abuse and neglect (CA/N) reports. Information gathered and maintained by the Call Floor is kept in confidential files both written and computerized. Access to this information is governed by State and Federal laws and regulations and by Departmental policy and procedure. While select individuals and/or agencies have access to virtually all information maintained in the Call Floor (the identity of the reporter or other confidential sources must be protected at all times), most others have more limited access. In all situations access is limited to those individuals and/or agencies who have a need and a right to know such data.

**Related Procedures...**

**[Response to Request for Confidential Information Received Through the Call Floor](#)**

**[Call Verification and Limitations for Information Released](#)**

**[Other Professionals Requesting Case Information by Contacting the Call Floor](#)**

## ~~Response to Request for Confidential Information Received Through the Call Floor~~

### ~~**Procedure From Policy 500.0045: Requests for Confidential Information Received Through the Call Floor**~~

- ~~A. If subjects of a report or lawyers representing subjects request release of information, Call Floor workers/CPIs will inform them that all requests must be in written, notarized form and mailed to the Assistant Director, Division of Child Protective Services:~~
- ~~1. Any specific questions about the case or procedures followed and/or a listing of any specific information requested must be included in the letter.~~
  - ~~2. Call Floor workers/CPIs shall never release case-related information to a subject or his/her attorney while on the telephone.~~
  - ~~3. Information which may be released to subjects of a report and/or lawyers representing these subjects, with approval of the Assistant Director of Child Protective Services or his/her designee, includes the following:~~
    - ~~a. A summary of the allegations made and/or the reason for involvement with the Department. Care must be taken, however, to protect the identity of the reporter/source or other confidential informant and confidential information regarding others.~~
    - ~~b. A summary of the medical care/conditions /data regarding the child while involved with CPS. The individual should be referred to the physician/nurse practitioner/health care facility for details.~~
    - ~~c. A summary of the child's placement history during his/her involvement with CPS. However, permission should be sought from the foster parents and it should be in the best interests of the child if identifying information is to be given.~~
    - ~~d. A detailed explanation as to the results of an investigation and plans, if any, for future agency involvement.~~
    - ~~e. Confidential information from third party sources (ex. psychiatric/ psychological evaluations) shall not be released by the Department without the expressed consent of that source. However, individuals may be made aware of such reports and who to contact to obtain more information.~~
- ~~B. Access to Abuse/Neglect Reports Taken by the Call Floor~~
- ~~1. The following people have access to all abuse/neglect reports taken by the Call Floor, subject to the limitations noted or court order:~~
    - ~~a. Child Protective Investigative Staff and Social Caseworkers in the course of assessing and serving children and families.~~
    - ~~b. Law enforcement officers investigating a report of known or suspected child abuse or neglect.~~
    - ~~c. Physicians/nurse practitioners who are examining a child when the physician/nurse practitioner has reasonable cause to suspect child abuse or neglect.~~
    - ~~d. The Attorney General or Assistant Attorneys General when that office is engaged in the investigation of or prosecution of criminal conduct of another relating to the child or other children within the same family unit.~~
    - ~~e. The Office of the Child Advocate as defined by State law (see Rhode Island General Law (RIGL) 62-73-8).~~
    - ~~f. A grand jury when it determines that access is necessary to conduct its business.~~
    - ~~g. A court upon its finding that access is necessary to determine an issue before the court with such access limited to in camera inspection unless the court determines that public disclosure of the information is necessary.~~
- ~~C. Persons Eligible to Receive Oral Information Through the Call Floor:~~

- ~~1. Physicians/nurse practitioners, law enforcement officers, and at times the Office of the Attorney General and the Office of the Child Advocate shall receive oral information through the Call Floor (excluding reporter/source information) subject to the limitations noted. All others must send a written request.~~
- ~~2. Verbal information released by Call Floor workers/CPIs to these individuals shall be limited to that contained in investigative files and in the CPS data base. This shall include, but is not limited to, the dates and content of abuse/neglect reports or other CPS involvement and the results of specific investigations or other CPS intervention. Information contained in ongoing DCYF service files shall be released only as stipulated in policy.~~
- ~~3. In all situations the Call Floor worker/CPI must verify the identity of the caller before releasing any information.~~

## Call Verification and Limitations for Information Released

### **Procedure From Policy 500.0045: Requests for Confidential Information Received Through the Call Floor**

- A. ~~Procedures for call verification and limitations for information released are as follows:~~
- ~~1. Physician/nurse practitioner – A physician/nurse practitioner is given information only when he/she is examining a child and has reasonable cause to suspect child abuse or neglect. Elicit the name of the physician/nurse practitioner and the phone number of the hospital/health care facility. Call directory assistance or otherwise verify the number given. Telephone the caller after verification has been completed.~~
  - ~~2. Law Enforcement Officer – Establish the name of the officer, his/her present location and phone number, and the phone number of the police department. Use the Resource Directory or otherwise verify the phone number of the law enforcement agency. Call the law enforcement agency to verify that the officer is currently on duty and to verify his present location. Telephone the officer once verification has been completed. A law enforcement officer is given information only when he/she is investigating a report of known or suspected child abuse or neglect.~~
  - ~~3. The Attorney General or Assistant Attorneys General – The Attorney General or Assistant Attorneys General have access to abuse/neglect reports in the Call Floor only when that office is engaged in the investigation of or prosecution of criminal conduct of another relating to the child or other children within the same family unit. Except in emergency situations, the Attorney General's Office shall send a written request for information to the Assistant Director, Division of Child Protective Services. This request shall include an explanation as to the involvement of that office with the individual(s) specified and the specific information requested. The DCYF Legal Office must be consulted before any specific information is released to the Attorney General's Office. In emergency situations where immediate information is required by the Attorney General's Office, the following verification procedure shall be used:~~
    - ~~a. Elicit the name of the caller, his/her phone number, the extent of involvement of the Attorney General's Office with the individual(s) specified, and the specific information requested.~~
    - ~~b. Call directory assistance or otherwise verify the number given.~~
    - ~~c. Consult the DCYF Legal Office once the identity of the caller has been verified and the information requested has been located.~~
    - ~~d. Telephone the caller after verification has been completed and release information only as instructed by Legal Counsel.~~
  - ~~4. The Office of the Child Advocate – As defined in RIGL 42-73-8, the Office of the Child Advocate shall have access to the names of all children involved with DCYF, their location if in custody, all reports of child abuse and neglect, and all current records. Except in emergency situations, the Office of the Child Advocate shall send a written request for information to the Assistant Director, Division of Child Protective Services including the name and date of birth of the specific individual(s) and the specific information requested. In emergency situations where immediate information is required by the Office of the Child Advocate, the following verification procedure shall be used:~~
    - ~~a. Elicit the name of the caller, his/her phone number, and the specific information requested.~~
    - ~~b. Call directory assistance or otherwise verify the number given.~~
    - ~~c. Call back the caller once verification has been completed.~~

## ~~Other Professionals Requesting Case Information by Contacting the Call Floor~~

### ~~**Procedure From Policy 500.0045: Requests for Confidential Information Received Through the Call Floor**~~

~~A.—Certain other professionals who contact the Call Floor requesting case information may be provided limited information subject to the following conditions. Disclosure to professional under this section is permitted only as authorized under R.I.G.L. 42-72-8. Therefore, limited information is defined as only that information which is necessary to enable the professional to engage in the activity outlined in that section of the General Laws as warranting disclosure. Identities of involved persons other than the person being treated, evaluated, diagnosed, educated or placed will not be disclosed unless essential to said treatment, evaluation, diagnosis, education, or placement. Professionals who have access to limited information include:~~

- ~~1.—Other DCYF employees (Social Work, Supervisory, Administrative Staff).~~
- ~~2.—Other State employees (Social Work, Supervisory, and Administrative Staff of SRS, MHRH, etc.).~~
- ~~3.—School Department/Head Start (Student Relations/Social Service, Administration, Principals).~~
- ~~4.—Visiting Nurse Association.~~
- ~~5.—Mental Health Professionals (Counselors, Psychologists/Psychiatrists, Administration).~~
- ~~6.—Comprehensive Emergency Services.~~
- ~~7.—Family Court (Judges and their designees, CASA volunteers, Guardians ad Litem).~~
- ~~8.—DCYF vendors (foster parents, group home staff, etc. limited to children presently in their care).~~

#### ~~B.—Telephone Requests~~

~~For all telephone requests the Call Floor worker/CPI must elicit the caller's name, the name of the school, agency community organization, etc. that he/she represents and his/her address and telephone number for verification.~~

~~Call directory assistance, check the Resource Directory, or otherwise verify the number of the school, agency, community organization, etc. When necessary, call the agency to verify the caller's employment (for example, when the caller is phoning from another location). Telephone the caller after verification has been completed.~~

#### ~~C.—Written Requests:~~

- ~~1.—For written requests the following information must be included, subject to the conditions noted:
  - ~~a.—The name of the individual/agency requesting information.~~
  - ~~b.—The name of the school, agency, community organization etc. that he/she represents and his/her address and telephone number.~~
  - ~~c.—The name(s) of the individual(s) about whom the information is requested.~~
  - ~~d.—Except for other DCYF employees and Family Court (including CASA Volunteers and Guardians ad Litem), such requests must be accompanied by a release of confidential information signed by the individual(s) about whom the information is requested before any detailed information will be given.~~~~

#### ~~D.—Ascertaining Need and Right to Know Information:~~

~~It must be clearly ascertained why the individual or agency is requesting information and that he/she has the need and the right to know such information as defined in RIGL 42-72-8 (Confidentiality).~~

~~In addition the individual or agency must currently be involved with the child or his/her immediate family (parents/siblings). The individual or agency must appear on the above~~

~~list of approved individuals, or prior Administrative approval must be obtained for the release of information.~~

~~E. Information That Can Be Released~~

- ~~1. Information that can be released depends on who receives the request and the status of the case. Call Floor workers may only verify either that CPS is currently active and provide the name and phone number of the assigned CPI/supervisor or that there is no current CPS involvement. The Call Floor worker shall not confirm or deny prior CPS involvement with a child or family. If the caller requests additional information, he/she shall be instructed to send a written request addressed to the Assistant Director, Division of Child Protective Services and to include a signed confidential release. If there is no current CPS involvement but the caller suggests or requests verification of other DCYF involvement, the Call Floor worker shall refer that individual to Masterfile.~~
- ~~2. CPIs/supervisors can release any or all of the information detailed in Procedure in Response to Request for Confidential Information Received through the Call Floor, subject to proper authorization (confidential release, court order, Administrative approval) and the documented need and right of that individual to know such information. Any disclosure of confidential information either oral or written, must be documented in a Case Activity Note (If there is any question as to the authorization to release information to any individual, supervisory and if necessary Administrative approval must be sought prior to that release.~~
- ~~3. In the instance of an investigation wherein the allegation is unfounded there shall be no disclosure or release of information related thereto without the written authorization of the person who had been the alleged perpetrator or leave of court after notice to said person and an opportunity to be heard, or as otherwise specifically provided in law.~~