

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

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

**DIVISION:** Child Protective Services

**RULE IDENTIFIER:** ERLID 6608

**REGULATION TITLE:** Processing and Notifications for an Alleged Institutional Abuse/Neglect Case

**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 FUTURE 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
- 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 (this rulemaking action)**
- 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.

# **Processing and Notifications of Alleged Institutional Abuse/Neglect**

**Rhode Island Department of Children, Youth and Families**

**Policy: 500.0060**

**~~Effective Date: July 7, 1984~~      ~~Revised Date: December 9, 2011~~      ~~Version: 5~~**

~~Institutional child abuse and neglect means the physical or mental injury, sexual abuse or exploitation, negligent treatment or maltreatment of a child under the age of eighteen or under the age of twenty one if the child is in the care of the Department by a person, including any employee of a residential facility or any staff person providing out-of-home care who is responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term encompasses both acts and omissions on the part of a responsible person. All persons in Rhode Island are required by law (RIGL 40-11-3) to report known or suspected cases of child abuse and/or neglect to the Department of Children, Youth and Families.~~

~~A person responsible for a child's welfare, for the purposes of this policy, includes the child's foster parent, an employee of a public or private residential home or facility or other person legally responsible for the child's welfare in a residential setting, or any staff person providing out-of-home care. Out-of-home care also includes child day care (family day care, group day care and center-based day care).~~

~~The Department is a firmly committed to the confidentiality of information received on all abuse and neglect allegations and investigation. The Department places strong emphasis on protecting the privacy of the individual under investigation while disseminating specific information regarding the allegations and investigation to Department staff who have a need to know it to protect the best interests of the child involved in the investigation.~~

## **Related Procedure**

**[Processing and Notifications of Alleged Institutional Abuse/Neglect](#)**

## **Related Policy**

**[Information/Referral Reports](#)**

# ~~Processing and Notifications of Alleged Institutional Abuse/ Neglect~~

## ~~Procedure from Policy 500.0060: Processing and Notifications for an Alleged Institutional Abuse/Neglect~~

### ~~I. Information/Referral Reports~~

- ~~A. A concern that is reported to the Child Protective Services (CPS) Hotline that concerns the well being of a child but does not meet the criteria for investigation is processed in conformance with DCYF Policy 500.0040, Information/Referral Reports.~~
- ~~1. The Call Floor Supervisor sends an E-mail message to licensing and the active worker(s).~~
  - ~~2. No verbal or written notification of the report is required for the Child Advocate.~~

### ~~II. Child Protective Service Calls~~

- ~~A. Child Protective Service calls, notification of investigation are as follows:~~
- ~~1. Foster Homes:~~
    - ~~a. The CPS report is completed and forwarded by the Call Floor worker to the Call Floor Supervisor.~~
    - ~~b. The Call Floor Supervisor accepts the CPS report and creates a case or links the report to an existing case. The case is assigned to the Investigative Unit for initiation of an investigation.~~
    - ~~c. The Office of the Child Advocate (OCA) is assigned to the case in RICHIST.~~
  - ~~2. Day Care Homes:~~
    - ~~a. The CPS report is completed and forwarded by the Call Floor Worker to the Call Floor Supervisor.~~
    - ~~b. The Call Floor Supervisor accepts the CPS report and creates a case or links the report to an existing case. The case is assigned to the Investigative Unit for initiation of an investigation.~~
    - ~~c. The Office of the Child Advocate (OCA) is assigned to the case in RICHIST.~~
  - ~~3. Residential Facilities~~
    - ~~a. The facility director or his/her designee must be verbally notified of all reports alleging institutional abuse/neglect:~~
      - ~~(1) The Child Protective Investigator (CPI) assigned to the investigation calls the Executive Director/designee at the initiation of a child abuse/neglect investigation. The CPI reads the narrative on the CPS report to the Executive Director/designee, excluding any reference(s) to the identity of the reporter.~~
      - ~~(2) If the Executive Director is not available, the CPI asks to speak to the designee. If no Assistant Director is available, the staff person will be requested to contact an Assistant Director and~~



~~have him/her call the CPI. If no call back is received, the CPI proceeds in accordance with Departmental policy.~~

- ~~b. The CPI records the date, time of notification, and person notified in a Case Activity Note.~~
- ~~c. If the scope of an investigation is significantly broadened during the course of an investigation, the CPI informs the Executive Director/designee and keeps him/her aware of major developments in the case.~~
- ~~4. Day Care Centers – The day care centers are not notified of reports alleging abuse/neglect.~~
- ~~5. Training School:
  - ~~a. The assigned CPI makes an initial attempt to interview appropriate staff or to schedule a definitive date and time for such interview to occur.~~
  - ~~b. In the event that such initial attempt does not result in either an interview being conducted or a definitive date and time for an interview being scheduled, the CPI immediately contacts the Superintendent.~~
  - ~~c. In the event that the staff person to be interviewed is an alleged perpetrator, the Superintendent and the CPI agree upon an interview time and date when the employee is scheduled to work. The Superintendent sends to the employee by certified mail, return receipt requested, a Letter of Notification.~~
  - ~~d. In the event that the employee fails to appear for the scheduled interview, the CPI completes his/her investigation and arrives at his/her conclusions without the input of the alleged perpetrator.~~
  - ~~e. In the event that the staff person to be interviewed is a witness, the Superintendent and the CPI agree upon an interview time and date when the employee is scheduled to work. The Superintendent sends to the employee by certified mail, return receipt requested, a Letter of Notification.~~~~

### III. Notification of Results – Indicated and Unfounded

#### A. Foster Homes

- ~~1. An E-mail message is automatically sent to the Licensing Supervisor, Licensing Worker and the primary worker(s). The report can be accessed online.~~
- ~~2. A CPS Report Notification is sent to the foster parents with the results of the investigation.~~

#### B. Residential Facilities (other than RI Training School):

- ~~1. An E-mail message is automatically sent to the Licensing Supervisor, Licensing Worker, Children's Behavioral Health worker and the primary worker. The report can be accessed online.~~
- ~~2. The CPI provides the facility director with notification of the results of the investigation documenting whether allegations were Indicated or Unfounded.~~

#### C. Day Care Providers:

- ~~1. An E-mail message is automatically sent to the Licensing Supervisor, Licensing Worker and the OCA. The report can be accessed online.~~
- ~~2. The CPI gives the provider and the subject of the investigation written notification of the results of the investigation documenting whether allegations were Indicated or Unfounded.~~

~~D. RI Training School:~~

- ~~1. CPI forwards a copy of the CPS Report to the Superintendent or designee.~~
- ~~2. Superintendent has access to review and/or authority to designate the Deputy Superintendent to review the full record of investigation in CPS. Access to review the full record is limited to the Superintendent and Deputy Superintendent.~~
- ~~3. The Superintendent or designee provides the employee under investigation with notification of the results of the investigation.~~
- ~~4. Inspector forwards a copy of the completed investigation to the Office of the Child Advocate via interdepartmental mail.~~