

## CONCISE EXPLANATORY STATEMENT

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In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, following is a concise explanatory statement:

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

**DIVISION:** Rhode Island Training School

**RULE IDENTIFIER:** 214-RICR-60-00-1

**REGULATION TITLE:** Rules and Regulations of the Rhode Island Training School

**REASON FOR RULEMAKING:** This rule is being promulgated to replace several existing Rhode Island Training School regulations.

R.I. Gen. Laws § 14-1-36.2 provides that children and youth placed in the custody of the Department of Children, Youth and Families receive suitable treatment, rehabilitation and care in the least restrictive environment.

The mission of the Rhode Island Training School (RITS) is to provide care in a secure facility to youth who are detained or adjudicated by order of the Family Court. The Training School promotes public safety and rehabilitation of residents through a comprehensive continuum of services provided in partnership with families, the community, and the Department in the least restrictive setting compatible with youth and community safety. Supervision, security, education, behavioral health, health and transition services are provided in an individualized, culturally, and gender sensitive manner.

**ANY FINDING REQUIRED BY LAW AS A PREREQUISITE TO THE EFFECTIVENESS OF THE RULE:** N/A

**TESTIMONY AND COMMENTS:**

**CHANGE TO TEXT OF THE RULE:**

**ACLU**

**1.13**

Changed to:

- E. All visitors are subject to a criminal record background check and a child protective services clearance check prior to being approved for visitation. \_

Family members with criminal records are not automatically prohibited from visitation, only individuals who pose a specific and credible threat to the safety of the residents or the security of the facility are excluded from visitation.

1. Individuals who are identified in a no contact order involving a youth or a member of the youth's family issued by a court of competent jurisdiction are excluded from visitation.

#### 1.14

Changed to:

In the event that any contact or visitation is sought between a resident and a parent who is an adult offender, meaning the adult is incarcerated at an adult correctional facility, the permission of the Superintendent or designee is required.

1. The unit Clinical Social Worker and Manager outlines the reasons why such contact and/or visitation is in the resident's best interest, the nature of the adult's offenses and his or her institutional adult record.
2. If visitation is requested, the Manager and Clinical Social Worker include, if available, the names and titles of the Adult Correctional Institution (ACI) staff who will supervise the adult offender and the names of the Training School staff who will supervise the resident.
3. If the Superintendent or designee approves contact and/or visitation, it is conducted in a setting that precludes interaction with Training School residents unrelated to the parent and in which supervision necessary to assure the resident's safety and well-being is continuously provided.

#### 1.13

Changed to:

Each resident is afforded an opportunity for a minimum visit of at least ninety (90) minutes per week. Residents on levels three (3) and four (4) are afforded a second family visit of ninety (90) minutes.

The Training School has a right to modify visits based on emergencies such as lock down, unit lock down, facility evacuation, and natural disasters.

#### 1.17

Changed to:

Reasonable requests for special diets for religious purposes are accommodated.

### **1.20.5 (E)**

Changed to:

1. Residents attend school in a designated area.
2. Residents are provided with meals within their housing unit.
3. Residents may participate in daily gym and/or recreational activities.
4. Residents are provided with necessary hygiene products.
5. Residents may use the telephone.
6. Residents are allowed the minimum family visit.
7. Residents are provided treatment programming as specified in their service plan.
8. While on Restrictive Status, the clinical social worker from the sending unit will continue to serve as the resident's primary clinical social worker.

## **Office of the Child Advocate**

### **1.10.C.3b**

Changed to:

To ensure medical confidentiality, interventions are delivered in private.

- a. Any exception to the medical confidentiality of a resident requires the finding by the Superintendent or designee that the safety or security of the resident or staff requires staff supervision.
- b. When the safety or security requires the presence of staff during a routine or scheduled physical examination or intervention, supervision is provided by staff of the same sex as the resident.

- i. In the case of a transgendered or intersex identified youth, the youth may identify the preferred gender of the supervising staff.

### **1.10.G.2.b**

Changed to:

Section was removed completely as it was not regulatory and confusing.

~~b. health appraisal is conducted by qualified staff under the supervision of a physician or dentist and is completed in a uniform manner which conforms to standard medical or dental practice.~~

### **Nicole Barnard: Attorney for RI Council 94 and Local 314**

### **1.6 (F)(1)**

Changed to:

Removed section 1.6.F in its entirety as it is redundant of Rhode Island State Law.

~~In accordance with RI Gen. Laws 42-72-17.2 the Training School has the following capacity requirements:~~

- ~~1. The capacity of the Training School is 96 beds, of which the maximum capacity of the female unit is 12 beds.~~
- ~~2. If the census approaches ninety five percent (95%) of the maximum population capacity, the Director of the Department notifies the Chief Judge of the Family Court.~~

### **Steve Shears President Local 314**

### **1.5**

If it is required by the staff member as apart of performing their specific duties, then it is not voyeurism and any reports of voyeurism will be investigated per CPS investigation protocol. Personal matters will be referred to Human Resources State Personnel Rules and Collective Bargaining agreement.

**1.6 (F)(1)** oppose the capacity of the RITS school as it does not align with what is state law

Changed to:

Removed section 1.6.F in its entirety as it is redundant of Rhode Island State Law.

~~In accordance with RI Gen. Laws 42-72-17.2 the Training School has the following capacity requirements:~~

- ~~1. The capacity of the Training School is 96 beds, of which the maximum capacity of the female unit is 12 beds.~~
- ~~2. If the census approaches ninety five percent (95%) of the maximum population capacity, the Director of the Department notifies the Chief Judge of the Family Court.~~

**1.17 (D)** want to change the title to reflect the position held by a local 314 union member

Changed to:

Requests for special diets based on health needs of residents are made to the dietary staff by medical personnel to provide a nutritional and medically appropriate diet for the resident.

### **Elizabeth Lowenhaupt**

#### **1.10A,**

Changed to:

- A. Providers of health, dental and behavioral health care are prepared and credentialed in conformance with the licensing and certification requirements of the RI Department of Health, RI Department of Children, Youth, and Families and/or the Department of Elementary and Secondary Education.
  1. Final judgments regarding medical care for residents are made by a physician or nurse practitioner and regarding dental care by a dentist.

#### **1.10A2**

Changed to:

~~The Training School maintains a centralized clinic with private examination facilities.~~ Residents have daily access to medically necessary health, dental and behavioral health services and 24-hour access to emergency health, dental and behavioral health services.

#### **1.10G2b**

Changed to:

~~health appraisal is conducted by qualified staff under the supervision of a physician or dentist and is completed in a uniform manner which conforms to standard medical or dental practice.~~

### **1.10G2c**

Changed to:

Review of results of medical or dental examinations, tests or the identification of problems is performed by a physician, nurse practitioner, dental hygienist, or dentist.

### **1.23**

Changed to:

Residents involved in an incident receive immediate ~~physical examination~~ medical care and treatment.

### **1.22 C 8 &10,**

Changed to:

~~Staff may not position or hold the resident in a manner which restricts breathing. Staff immediately release a resident who exhibits any signs of significant physical distress, such as difficulty breathing during restraint and provide the resident with immediate medical assistance.~~

The clinic is notified and the resident is examined by a nurse as soon as practical after any restraint ~~but in all cases within the same shift.~~

## **REGULATORY ANALYSIS:**

### **Introduction**

The Department of Children, Youth and Families (Department) proposes to amend the existing Rules and Regulations for the Rhode Island Training School of the Department to be consistent with updated statutory requirements of the Administrative Procedures Act (APA), R.I. Gen. Laws § 42352.9. Pursuant to § 42-352.9, the Department has conducted a regulatory analysis for the proposed regulation. The Department used the best available information at the time of publication to estimate the benefits and costs of the proposed regulatory provisions.

The following regulations have been amended and consolidated into the singular regulation known as the Rhode Island Training School:

- Administrative Classification to Restrictive Status 1200.1308 ERLID: 7256
- Administrative Responsibility 1200.0003 ERLID: 6180
- Administrator on Call 1200.0004 ERLID: 6181
- Behavior Report 1200.1305 ERLID: 6184
- Case Transfers between the Rhode Island Training School and Family Service Units or Juvenile Probation 1200.1620 ERLID: 7774
- Clinical Services at the Rhode Island Training School 1200.1110 ERLID: 7955
- Court Disposition 1200.0014 ERLID: 7785
- Culinary Equipment 1200.0838 ERLID: 6337
- Daily Census Report for the RI Training School 1200.0504 ERLID: 6237
- Discipline for Academic and Vocational Classes 1200.1310 ERLID: 6028
- Education Program at the RI Training School 1200.1701 ERLID: 7993
- Escape 1200.1608 ERLID: 6339
- Facility Capacity 1200.0002 ERLID: 7786
- Facility Management and Environmental Safety 1200.0718 ERLID: 6361
- Fifteen Minute Room Checks 1200.0839 ERLID: 6019
- Food Service 1200.0900 ERLID: 7787
- General Discipline 1200.1300 ERLID: 6020
- Incentive System-Points 1200.0103 ERLID: 7781
- Juvenile and Adult Offender Interactions 1200.0011 ERLID: 6182
- Lawful Detention or Confinement of Juveniles 1200.0010 ERLID: 7789
- Legal Assistance 1200.0017 ERLID: 6185
- Legal Establishment 1200.0000 ERLID: 7788
- Lock Up 1200.1307 ERLID: 7258
- Major Discipline Review 1200.1306 ERLID: 7259
- Master Control Center 1200.0857 ERLID: 6341
- Mission, Philosophy, Goals and Purpose 1200.0001 ERLID: 7508
- Movement of Residents on Grounds 1200.0809 ERLID: 6342
- Notice to Superintendent 1200.0702 ERLID: 6387
- Portable Radios 1200.0708 ERLID: 6343
- Post Assignments 1200.0847 ERLID: 6614
- Protecting and Preserving Evidence 1200.0835 ERLID: 6344
- Resident Grievance Procedure 1200.1206 ERLID: 6346
- Resident Handbook 1200.1301 ERLID: 6031

- Resident Personal Property 1200.1203 ERLID: 6241
- Resident Room Inspections 1200.1003 ERLID: 6347
- Resident Telephone Calls 1200.1402 ERLID: 7959
- RITS Personnel Administration 1200.0222 ERLID: 6396
- Safety and Emergency Procedures at the RI Training School 1200.0714 ERLID: 6357
- Search of a Resident of the RI Training School 1200.0819 ERLID: 6977
- Searches for Contraband 1200.0821 ERLID: 6348
- Suicide Prevention and Special Watches 1200.0709 ERLID: 6349
- Tool and Equipment Control at the RI Training School 1200.0855 ERLID: 6350
- Tours of the RI Training School 1200.0007 ERLID: 6115
- Transportation of Residents Off Grounds 1200.0240 ERLID: 6244
- Unusual Incident Report 1200.0827 ERLID: 6351
- Use of Physical Force/Corporal Punishment 1200.1207 ERLID: 6117
- Use of Restraint at the RI Training School 1200.0832 ERLID: 6978
- Use of State Vehicles 1200.0724 ERLID: 6352

## Background

Pursuant to the Governor's initiative to reduce the regulatory footprint by fifteen percent (15%) the Department reviewed the Rhode Island Training School rules and regulations and removed non-regulatory language and redundancies, repealed sections in which the regulations exceeded its mandate and replaced in more appropriate formats, such as Department Operating Procedures or Practice Guidance documents. The project to rewrite the Rhode Island Training School Regulations was, therefore, established to improve the regulations, make them more accessible and to ensure that they are reflective of industry standards and actual required practice.

## Regulatory Development

In considering what constitutes "regulation," the Department's Policy Office regularly asked the following questions before committing the rule to the regulatory document:

- is it regulatory in nature;
- does it meet the standard of requiring the "force and effect of law;" and
- is it within the mandate of these regulations?

The revisions were presented to a select group of DCYF staff for comment and the Department's legal team reviewed the completed drafts.



## Main Changes to Status Quo

While specific changes are analyzed in the section titled “Cost-Benefit Analysis by Provision”, overall the proposed changes cover three (3) areas.

First, the most significant change to the regulations is that they have been modernized to conform with current practice, industry standards and best practice in the delivery of juvenile correction services. Evidenced based, person-centered, and juvenile correctional themes and language were addressed throughout the document. Safety of staff and residents was also a major focus.

The second significant focus is on ensuring alignment with best practice standards established by nationally recognized bodies and Federal requirements.

The final significant changes were to remove redundancies and language that is non-regulatory in nature. The policy office worked to ensure that rules were only stated once in the document. Language in the regulations governing the Department was removed to be addressed under the Department’s Operating Procedures as regulations are not intended for agencies to regulate themselves. Similarly, all language in the regulations that exceeds the Department’s regulatory mandate was removed. The changes are documented and references are made on how those changes are addressed to maintain appropriate safeguards for the population served by these regulations.

## Key Alternatives Considered

During the regulatory revision process described above, the Department and considered a number of options that would meet the goals for updating the regulations to meet the current required standards, practices and federal requirements.

## Determination

The Department has determined that there is no alternative approach among the alternatives considered during the rulemaking proceeding which would be as effective and less burdensome to affected persons as another regulation. This regulation does not overlap or duplicate any other state regulation; the benefits of the rule justify the costs of the rule; and the rule will achieve the objectives of the

authorizing statute in a more cost-effective manner, or with greater net benefits, than other regulatory alternatives.