



AFSCME RI Council 94

Local 314 Rhode Island Boys and Girls Training School

To: Sarah St. Jacques

From: Stephen Shears, President Local 314

Date: March 30, 2018

Subject: Written response testimony re; Proposed DCYF Rhode Island Training School Rule and Associated repeals.

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Proposed Regulations for Adoption

214 -RICR-60-00-01

Title 214 - Department of Children, Youth and Families

Chapter 60 - Rhode Island Training School

Sub Chapter 00 - N/A

Part 1 Rules and Regulations of the Rhode Island Training School

***Justification for regulatory changes:***

Language added to comply with federal provisions of the Prison Rape

Elimination Act. P.L. 108-79 September 4<sup>th</sup>, 2003

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The unions response testimony to addition to language as proposed in section 1.7 (A.) (C.) is as follows;

- 1.** The Union Local 314 AFSCME, representing members of the line staff employed by the Department of Children, Youth and Families, Division of Juvenile Correctional Services, Rhode Island Training School for Youth. Is requesting that with regards to the new language as it relates to the Prison Rape Elimination Act (from this point referred to as PREA) should include language clarifying the State and or Department assigned entity to whom will be charged the responsibility of investigating all such claims by any and all parties of alleged violations contained in PREA and as it relates to the residential population incarcerated at the Rhode Island Training School and the members of Local 314, RI Council 94 whom are employees of the State and the Department of Children, Youth and Families.

2. That all such complaints and or allegations with regards to valuations of the rules and regulations contained with the tenants of the act be subject to the September 1997 agreement Gray, et.al. V. DCYF, et.al., C.A. No. 94-0254L and Cardin, V. Linda D’Amario Rossi, et.al., C.A. No. 94-0257L that established the adoption of Rules and Regulations with regards to CANTS investigations involving Training School Employees, effective September 15, 1997 – (see DCYF Policy # 500.0060, (A)(5)a-e and (D)1-4 effective July 7, 1984, reviewed December 12<sup>th</sup> 2011.
3. The Union’s contention is that if left as written, the current proposed rule changes and how they would relate to the ultimate adoption of the new language as it relates to compliance with P.L. 108-79 occurring without the above recommended changes to that proposed language would not provide for in our collective opinion, any avenue to due process for staff members accused of a PREA violation in the event that a claim is made, and the investigatory process is started and disciplinary action become the recommendation of the administration.
4. That the term Voyeurism, where ever it is used throughout this proposed language and or in subsequent policies as defined in subsection (A) of 1.7 be inclusive of the following language, “Means an invasion of privacy of an inmate, detainee, or resident, by staff for reasons unrelated to official duties.” The facility staff due to the very nature of their job-related duties and responsibilities for the safety of the youth offenders in their custody, have many occasions to while during those official duties peer at a resident who is in the middle of a strip search which is defined in P.L. 108-79 as; A search that requires a person to remove or arrange some or all of their clothing so as to permit a visual inspection of the person’s breast, buttocks, or genitalia.”  
Per DCYF policy 1200.0819, dated October 2<sup>nd</sup>, 2012, Titled Procedure, subsection (B) and (F) authorizes staff to conduct a strip search of a resident in adherence to the listed and approved article’s as defined within the policy statement. The conduct of this type of search would be subject to a violation of the definition of Voyeurism as spelled out in the proposed rules change language. The Union would ask that the definition of the word voyeurism once again stipulate no violation if the staff member is acting in the capacity of their job-related duties.
5. The Union’s position is that by the very nature of what is listed within the job specifications for Juvenile Program Workers, under job duties, Care, Custody and Control are all described. These duties are specific to having to keep a constant visual observation of all residents assigned to their care, custody and control. Due to the requirement and frequency of maintaining this visual observation, which includes direct lines of sight, the exact definition of Voyeurism needs to be

clarified with assistance and input from those staff who are working in these positions on a daily basis, so as to prevent a charge of institutional neglect from being proposed due to a vague interpretation of the voyeurism definition as it relates to, “while in the performance of their duties.”

The Union’s response testimony to addition to language as proposed in section 1.3 Application as follows;

**1.** The Union objects to the language that “these regulations shall be liberally construed.”

Policy must be clearly defined, and language such as liberally construed leaves to much of what should be defined to interpretation.

The Union’s response testimony to addition to language as proposed in section 1.6 General Administration, subsection (F)(1) as follows;

**1.** The Union objects to the language in subsection (F)(1) stating that the capacity of the Training School is **96** beds, of which the maximum capacity of the female unit is 12 beds.

**2.** This is contrary to what is stipulated in **RIGL 42-72-17.2** that the legislated capacity is **148** beds total. The language in the proposed rule changes must reflect and be in compliance with existing state legislation and or be subject to a separate public hearing conducted at the State house via a legislative vote by the General Assembly for that to be changed to **96** beds capacity total facility.

The Union’s response testimony to an addition to and or change to language as proposed in section 1.17, subsection(D) Food Service is as follows;

**1.** The Union request that the Job classification title **Principal Cook** as currently included be changed to **Senior Food Service Administrator** to reflect the current hierarchy of staff working in this area as it relates to managerial supervision of both the food services and kitchen and or dietary staff whom are represented by Local 314.

The Union’s response testimony to an addition to and or change to language as proposed in section 1.22, subsection(D)(1) Use of restraint - Suicide prevention and special watches is as follows;

**1.** The word **Suicide smock** is stipulated in the context of this policy statement. All though they are now a part of the inventory, staff have not been presented with any formal use protocol. And or formal training in how

or when it's to be used and or who has the authority to have it put into use. The Union request that if this item and its use is to be authorized, that a separate protocol and training be developed as to how and when it is implemented.

This statement concludes my written testimony as it relates to the above proposed rule changes as specified in the 41-page document, dated March 1<sup>st</sup>, 2018.

Submitted: Friday March 30<sup>th</sup>, 2018

Stephen Shears, President, Local 314 RI Council 94 AFSCME  
Rhode Island Boy's and Girl's Training School.