

214-RICR-10-00-1

## TITLE 214 – DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES

### CHAPTER 10 – GENERAL ADMINISTRATION AND MANAGEMENT

#### SUBCHAPTER 00 – N/A

#### Part 1 – General Administration and Management

### 1.1 Purpose

- A. The Mission of the Department of Children, Youth and Families (hereinafter the Department) is to partner with families and communities to raise safe and healthy children and youth in a caring environment.
- B. The Department has a responsibility to promote, safeguard and protect the social well-being and development of children of the state through a comprehensive program which is consistent with R.I. Gen. Laws § 42-72-2.
- C. The Department is mandated by federal and state law and Department policy to make reasonable efforts to prevent a child's removal from his/her home, to reunify the child and family and to make and finalize an alternate permanent placement when the child and family cannot be reunited. The Department is guided by principles of family-centered, culturally competent practice and utilizes standardized tools at various points throughout the Department's involvement with a family. Family represents the focus of all work and family members are engaged through the development and implementation of any plan. The family is defined broadly and includes biological parents, adoptive families, extended kinship networks to include fictive kin, foster families, and legal guardians.

### 1.2 Authority

These regulations are promulgated pursuant to the Freedom of Information Act (1996) (5 U.S.C § 552), General Privacy Act (1974) (5 U.S.C § 552a), R.I. Gen. Laws Chapters 42-72, 42-72.1, R.I. Gen. Laws §§ 42-73-8, 42-35-6, 42-73-9, 42-73-10, 42-72-8, 40-11-13, 8-10-21, 14-1-5, 14-1-11, 15-7-7, 23-3-23, 40.1-5-26, 40.1-5-27, 40.1-5-29, 38-2-1, and 15-9-3, the Social Security Act (42 U.S.C. § 675(4)(A)), Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*), Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. § 794), and the Age Discrimination Act of 1975 as amended (42 U.S.C. § 6101 *et seq.*), Prison Rape Elimination Act of 2003, Pub. L. No. 108-79.

### **1.3 Application**

The terms and provisions of these regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals and policies.

### **1.4 Severability**

If any provision of these regulations or application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the validity of the remainder of the regulations shall not be affected thereby.

### **1.5 Definitions**

- A. "Department" means the Department of Children, Youth and Families.
- B. "RITS" means the Rhode Island Thomas C. Slater Training School for detained or adjudicated youth placed at the RITS by order of the Family Court.
- C. "Fatality" means the death of a child in which confirmed child abuse or neglect is determined to be a contributing factor to the cause of death.
- D. "Near fatality" means that a child was placed in serious or critical condition as the result of an act of abuse or neglect. The child being placed in serious or critical condition must be classified by the treating physician, and reflected in the medical chart. The treating physician's determination that the child is in serious or critical condition is accepted without further assessment by the Department.
  - 1. "A serious or critical condition" means that the patient's vital signs are unstable and not within normal limits. Patient is acutely ill, and/or unconscious, and/or has a neurological status changes requiring medical intervention.

### **1.6 Petition for Adoption of Rules**

- A. In compliance with R.I. Gen. Laws § 42-35-6 (Petition for promulgation of rules), any interested person may petition the Department requesting the promulgation, amendment, or repeal of any regulation.
- B. Individuals requesting the promulgation, amendment, or repeal of any regulation should address their concerns in writing to the Office of Practice Standards, Office of the Director.
- C. The request should include:
  - 1. Specific reference to the policy/procedure section affected;

2. Specific action requested, i.e. promulgation, amendment, or repeal; and

3. Rationale for request.

D. If the request by the petitioning party is denied, the Department responds in writing to the petitioning party within thirty (30) days of the Department's receipt of the request. The reasons for the denial are included in the response.

E. If the request is accepted, the Department ensures that appropriate changes are made. In accordance with the Administrative Procedures Act (R.I. Gen. Laws § 42-35-4), rule-making proceedings are initiated within thirty (30) days of receipt of the request.

### **1.7 Child Abuse and Neglect Registry Check Child Protective Services Clearance**

A. To ensure appropriate safeguards, state and federal law mandates a check of the Department's Child Protective Services (CPS) records for many individuals, including minors and adults, who provide care to children and youth. The Department's ~~Child Abuse and Neglect Registry Checkd Protective Services-clearance~~ is also known as a Clearance of Agency Activity.

B. The following individuals are required to submit to the ~~Child Abuse and Neglect Registry CheckCPS-clearance~~:

1. Subjects of reports of child abuse and/or neglect to CPS;

2. Individuals referred to the Department for services;

3. Adult members of household where a child active with the Department resides;

4. Individuals associated with Department involved families;

5. Relative and non-relative foster care providers;

6. Adoptive parents;

7. Legal guardians;

8. Respite care providers;

9. Visiting resources;

10. Operators and employees (who have supervisory/disciplinary authority over and/or routine contact with children without the presence of others) of:

a. Residential child care facilities;

b. Non-residential child care facilities;

c. Child placing agency;

d. Community base programs required to be licensed or certified by the department.

11. Volunteers at any Department licensed facility;

12. Department employees, interns, and volunteers; and

13. Individuals associated with organizations as determined by the Department.

C. Individuals subject to a Child Abuse and Neglect Registry CheckPS clearance may also be subject to a statewide or nationwide criminal record background check and/or an employment background check and/or a statewide or national sex offender registry check.

D. The Department will conduct the Child Abuse and Neglect Registry CheckPS clearance in accordance with Department Operating Procedure and will assess if a person is disqualified based on the list of disqualifiers cited in § 1.8.1 of this Part.

#### 1.7.1 Child Abuse and Neglect Registry CheckPS Clearance-Disqualifying Information

A. An applicant, who has been identified as an indicated perpetrator of a Child Protective Services (CPS) Investigation with a final finding of an allegation listed below in §§ 1.8.1(B) and (C) of this Part, is disqualified from owning or seeking employment in a child care facility, receiving a license to provide care for a child or serving in any other role subject to a Department clearance.

B. Indicated Abuse or Neglect Findings

1. Death

2. Brain Damage/Skull Fracture

3. Subdural Hematoma

4. Internal Injury
5. Malnutrition/Starvation
6. Drug/Alcohol Abuse
7. Sexually Transmitted Disease
8. Sexual Intercourse
9. Sexual Exploitation
10. Sexual Molestation
11. Failure to Thrive
12. Tying/Close Confinement
13. Emotional Abuse
14. Abandonment
15. Medical Neglect
16. Medical Maltreatment
17. Corporal Punishment (Institutional)

C. Indicated Abuse Findings

1. Burn/Scalding
2. Poisoning
3. Wound
4. Bone Fracture
5. Excessive/Inappropriate Discipline
6. Cut/Bruise/Welt
7. Human Bite
8. Sprain/Dislocation

D. In certain situations, involving incidents with an indicated allegation of Drug/Alcohol Abuse, Excessive/Inappropriate Discipline, Cut/Bruise/Welt,

Tying/Close Confinement, Abandonment, Medical Neglect, or Corporal Punishment (Institutional) in which there is no serious physical injury to a child, there may be an administrative determination that the individual will not be disqualified from employment or licensing.

- E. In instances where CPS involvement is noted, but not specified above, the applicant is not automatically disqualified from seeking employment or a license. The decision to hire remains with the employer. The decision to license remains with the Department.

## **1.8 Criminal Record Background Checks**

### **1.8.1 General Requirements**

- A. A nationwide criminal record background check includes the taking of fingerprints. An individual subject to a criminal record background check may also be required to undergo an employment background check, and/or a sex offender check, and/or a clearance of agency activity for substantiated allegations of child abuse and neglect.

B. Individuals Subject to Criminal Record Background Check(s)

1. Statewide and nationwide criminal record background checks are required for prospective:

a. Foster parents and visiting resources for children receiving Department services and household members, age eighteen (18) or over.

b. Adoptive parents and household members age eighteen (18) or over.

c. Legal guardians and household members age eighteen (18) or over.

d. Owners and operators of:

(1) Residential child care facility(s);

(2) Child Care Center(s) and Family Child Care Home(s);

(3) Child Placing Agency(s); and

(4) Community-based program(s) required to be licensed or certified by the Department.

e. Applicants for positions involving supervisory or disciplinary power over or routine contact with a child(ren) without the presence of other employees, including any prospective employees, volunteers and consultants of a:

(1) Residential Child Care Facility;

(2) Child Care Center or Family Child Care Home;

(3) Child Placing Agency; or

(4) Community-Based Programs required to be licensed by the Department.

f. Applicants for employment in any Department position.

g. Volunteers, interns, and consultants applying for Department positions that involve supervisory or disciplinary power or routine contact with a child(ren) without the presence of other employees.

2. Statewide criminal record background checks are required for prospective:

a. Department volunteers and consultants applying for positions that do not involve supervisory or disciplinary power or routine contact with a child(ren) without the presence of other employees;

b. Volunteers of residential child care facilities, child care centers, or family child care centers licensed by the Department;

c. Family child care home household members, age eighteen (18) or older;

d. Respite care providers; and

e. Members of the Board of Directors of a child placing agency.

3. Statewide criminal record background checks may be required for individuals who:

a. Are subjects of reports of child abuse and/or neglect;

b. Are referred to the Department for services or are adult household members of individuals referred to the Department for services; or

c. Have contact with children receiving services from the Department.

4. An individual who requires a nationwide criminal record background check is also subject to the statewide criminal record background check.

### **1.8.2 Criminal Record Background Checks – Prospective Foster and Adoptive Parents**

- A. Statewide and nationwide criminal record background checks are completed on all prospective foster and adoptive parents and prospective visiting resources for children receiving Department services and their household members over age eighteen (18). All nationwide criminal record background checks include the taking of fingerprints. A visiting resource is an individual who agrees to maintain regular contact, which may include overnight and weekend visitation with a child in care and is a prospective foster care resource.

- B. Children will not be placed in foster homes pending licensure until all background checks are completed.

#### **C. Statewide Criminal Record Background Check:**

1. It is the responsibility of the child placing agency, in the case of a foster or adoptive home licensed through a child placing agency, to ensure that the statewide criminal record background check is completed on applicants and their household members eighteen (18) and over.
2. As part of the re-licensing process, a statewide criminal record background check is completed by:
  - a. Department licensing staff for foster and adoptive resources licensed through the Department.
  - b. The child placing agency staff person for foster and adoptive resources licensed through the child placing agency.
3. Department staff are prohibited from providing copies of this information to persons outside of the Department. Staff refer subjects of a criminal record background check, who wish copies of clearance results, directly to the Department of the Attorney General.

#### **D. Nationwide Criminal Record Background Check**

1. The applicant or adult household member is instructed by the assigned Department or child placing agency staff to apply to the bureau of criminal identification of the state police or the local police department for a nationwide criminal record background check.



- a. The applicant is provided with and instructed to bring to law enforcement agency a Fingerprint Affidavit. The Fingerprint Affidavit includes the Criminal Record Background Checks Addendum - Disqualifying Information and informs the law enforcement agency where to send the results (either the Department or the Child Placing Agency).
- b. A criminal record background check is conducted without charge to prospective foster parents or adoptive parents. In the case of prospective adoptive parents, the Department or the private child placing agency conducting the adoption home study is responsible for all costs relating to the checks.
- 2. The Department is provided with details of criminal convictions in addition to being notified that there is disqualifying information.
  - a. If the Department receives information regarding a history of non-disqualifying criminal information, this information is reviewed prior to proceeding with licensing.
  - b. An applicant with a conviction of an offense that is not automatically disqualifying may be denied licensure if it is determined that the conduct of the applicant impacts upon the fitness and suitability of the applicant to provide child care.
- 3. A child placing agency is only notified whether or not disqualifying information exists.
- 4. An individual applying to be an adoptive parent may not be required to submit to this check if he/she has undergone a nationwide criminal record background check for the Department within the eighteen (18) months prior to the date of application. A letter from the state or local police who completed the nationwide check verifying the date and results of that check is acceptable.
- E. If disqualifying information has been discovered, the Department or the child placing agency immediately notifies the applicant in writing of the denial of licensure.
- F. The notification letter informs the applicant of the right to appeal in conformance with, Complaints and Appeals and Criminal Record Background Checks, Disqualifying Information § 1.9.6 of this Part.

### **1.8.3 Criminal Record Background Checks – Prospective Facility Operators and Employees**

- A. Statewide and nationwide criminal record background checks are completed on all prospective residential child care facility owners and operators, child placing facility owners and operators, child care center owners and operators, family child care home operators and owners/operators of community-based programs requiring Department licensing.
- B. The applicant must undergo a state criminal check for each state the applicant has lived in the past five (5) years.
- C. The applicant must undergo a Rhode Island state sex offender registry check and a national sex offender registry check.
- D. For a nationwide criminal record background check, the applicant is instructed to apply to the Rhode Island Bureau of Criminal Identification.
  - 1. Any expense associated with the criminal record background check is paid by the applicant and/or requesting agency.
  - 2. The applicant completes the Employment History Affidavit and Criminal History Affidavit.
  - 3. The applicant is provided with and brings to the Rhode Island Bureau of Criminal Identification the Fingerprint Affidavit. The Fingerprint Affidavit includes the Criminal Record Background Checks Addendum, Disqualifying Information.
- E. Results of the criminal record background check, identifying the nature of any disqualifying information, are sent to the Department.
  - 1. If the Department receives information regarding a history of non-disqualifying criminal information:
    - a. Information is reviewed prior to proceeding with licensing.
    - b. An applicant with a conviction of an offense that is not automatically disqualifying may be denied licensure if it is determined that the conduct of the applicant impacts upon the fitness and suitability of the applicant to provide child care.
  - 2. If disqualifying information has been discovered, Department staff immediately notify the applicant of the denial of licensure.
  - 3. The notification letter informs the applicant of the right to appeal, if applicable, in conformance with Complaints and Appeals and Criminal Record Background Checks, Disqualifying Information § 1.9.6 of this Part.

F. Employees of residential child care facilities, child placing facilities, child care centers, community-based programs requiring Department licensing and of family child care homes:

1. Family child care home assistants and individuals providing emergency coverage are subject to statewide and nationwide criminal record background checks.
2. Family child care home operator ensures that the applicant completes the Employment History Affidavit and Criminal History Affidavit and forwards to Department Licensing.
3. Family child care home operator instructs the applicant to apply to the bureau of criminal identification of the state police or the local police department for a nationwide criminal record background check. The applicant is provided with, and brings to law enforcement agency, the Fingerprint Affidavit, which includes the Criminal Record Background Checks - Addendum, Disqualifying Information and informs the law enforcement agency where to send results.
4. Results are sent to the Department, indicating that the applicant does or does not have disqualifying information.
  - a. If there is no criminal history, the Department informs the family child care home operator that the prospective employee is eligible for employment.
  - b. If the Department receives criminal history information that is not automatically disqualifying, this information is reviewed. An applicant with a conviction of an offense that is not automatically disqualifying may be denied licensure if it is determined that the conduct of the applicant impacts upon the fitness and suitability of the applicant to provide child care.
  - c. If disqualifying information has been discovered, The Department informs the family child care home operator that the prospective employee is ineligible for employment.
  - d. The applicant/employee is provided a copy of the notification and informed of his or her right to appeal if applicable in conformance with, Complaints and Appeals and Criminal Record Background Checks, Disqualifying Information § 1.9.6 of this Part.

5. As part of re-licensing, the Department completes a statewide criminal record background check on family child care home assistants, individuals providing emergency coverage and adult household members.

G. Employees of residential child care facilities, child placing facilities, child care centers and community-based programs requiring Department licensing:

1. Facility operator requires all persons who are offered employment, volunteers and consultants, in positions that involve supervisory or disciplinary power over a child or involve routine contact with a child without the presence of other employees, to undergo statewide and nationwide criminal record background checks, statewide and nationwide sex offender registry check, a RI state child protective service check and a state-child protective service check (also known as Adam Walsh check) for each state the individual has lived in the past five (5) years.

2. The Operator ensures that the applicant completes the Employment History Affidavit and Criminal History Affidavit.

3. The Operator instructs the applicant to apply to the bureau of criminal identification of the state police or the local police department for a nationwide criminal record background check. The applicant is provided with, and brings to law enforcement agency, the Fingerprint Affidavit and informs the law enforcement agency where to send the results. Results of the check are sent to the employer, indicating that the applicant does or does not have disqualifying information.

4. If the facility administrator hires the employee prior to receiving the results of the check:

a. The Employment History Affidavit, Criminal History Affidavit and results of the statewide criminal record background check, indicating no history of disqualifying information, must be completed and fingerprints taken prior to the applicant beginning the job assignment.

b. The applicant ensures that prior to starting employment, the employer has received written verification that the nationwide criminal record background check has been initiated and this documentation is placed in the employee's personnel file.

c. Until the results of the check are received by the employer, the employee, volunteer, or consultant does not have supervisory or disciplinary power over or routine contact with child(ren) without the presence of others.

- d. Within ninety (90) calendar days of hiring, notice is placed in the personnel file identifying the results of the criminal background check. If notice is not received within ninety (90) days, the applicant is relieved of child caring responsibilities.
- 5. Upon receipt of notification that disqualifying information has been discovered, the facility administrator immediately notifies the applicant that his/her application is rejected or, if an individual is already employed, that employment will be terminated in ten (10) working days.
  - a. This notification letter informs the employee of his/her right to appeal in conformance with Complaints and Appeals and Criminal Record Background Checks, Disqualifying Information § 1.9.6.
  - b. A copy of this letter is provided to Department Licensing and to the EOHHS Hearing Officer.
  - c. Any notifications by the EOHHS Hearing Officer to the Licensing staff within the context of the appeal are shared with the facility administrator.
- 6. Employees, volunteers or consultants who do not have supervisory or disciplinary power over or routine contact with children without the presence of others need not undergo the criminal record background checks.
  - a. The facility operator certifies in writing that the individual has no supervisory or disciplinary power over or routine contact with child(ren).
  - b. A copy of this certification is provided to the Department's Licensing staff and filed in the employee's personnel file.
- 7. A facility operator's failure to require the criminal record background check or failure to maintain the written results of the check or the above referenced certification on file constitutes grounds to revoke the license of the operator.
- 8. As part of re-licensing, the facility operator is responsible to ensure that a statewide criminal record background check is completed for each full or part time employee, volunteer or consultant who has supervisory or disciplinary power over or routine contact with child(ren) without the presence of others.

9. Expungement of the results of the employee's criminal record background check is consistent with the facility's policy on expunging the employee's personnel file after termination of employment.

H. Prior nationwide criminal record background checks for employees:

1. An applicant for employment may not be required to submit to fingerprinting if he/she has submitted to the nationwide criminal record background check eighteen (18) months prior to the date of application.
2. Employer may request, from the Bureau of Criminal Identification of the state police or the local police department or the Attorney General's Office for employees of residential child care facilities, child placing facilities, child care centers or community-based programs requiring Department licensing, a letter indicating if any disqualifying information was discovered.
3. State or local police bureau of criminal identification or the Attorney General's Office responds by stating if disqualifying information was discovered (without disclosing the nature of the information) or by stating that no disqualifying information was discovered.
4. The letter from the state or local police who completed the nationwide criminal record background check, which verifies the date and results of that check, is maintained on file.

**1.8.4 Criminal Record Background Checks – Employees of the Department**

- A. All prospective employees of the Department are required to undergo statewide and nationwide criminal record background checks. The nationwide criminal record background check includes the taking of fingerprints.
- B. All Training School employees, and all contractors and consultants who do business at or in any of the components of the Training School, must undergo criminal background checks and must submit to the following criminal background checks every fifth (5th) year of their employment or contractual/consultant relationship with the Training School.
  1. Such background checks are conducted during the anniversary month of the employee's date of hire or assignment to the Training School. In the case of contractors/consultants, such background checks are conducted during the anniversary month of the start of that individuals work with the Training School.

2. Five (5)-year criminal background checks are done using State Bureau of Criminal Investigation (BCI) checks.

a. For employees covered by this regulation, failure to submit to these checks may be used as cause for disciplinary action, up to and including dismissal from employment with cause.

b. For consultants and contractors covered by this regulation, failure to submit to these checks may be used as cause for termination with cause of any and all agreements for consulting or contracting with the Department, with the consultant/contractor forfeiting any and all future payments within their contract for services with the Department.

c. Any criminal information found in these checks are subject to administrative review and appropriate disposition.

C. All prospective Department volunteers, interns and consultants undergo a criminal record background check(s).

1. A statewide criminal record background check is required for volunteers, interns, and consultants when their positions will not involve supervisory or disciplinary power or routine contact with a child without the presence of other employees.

2. Statewide and nationwide criminal record background checks are required for Department volunteers, interns, and consultants when their positions involve supervisory or disciplinary power or routine contact with a child without the presence of other employees.

D. For a nationwide criminal record background check, the Department instructs applicants to apply to the bureau of criminal identification of the Department of the Attorney General, state police or the local police department.

1. The applicant is provided with, and brings to law enforcement agency the Fingerprint Affidavit.

2. The Fingerprint Affidavit includes the Criminal Record Checks Addendum, Disqualifying Information and informs the law enforcement agency where to send results of the check.

E. Upon receipt of the results of the criminal record background check, the Department may take action relative to the applicant's employment:

1. If there is no criminal history, the applicant and the Department are informed in writing.
2. If the Department receives criminal history information that is not automatically disqualifying, this information is reviewed. An applicant with a conviction of an offense that is not automatically disqualifying may be denied employment if it is determined that the conduct of the applicant impacts upon the fitness and suitability of the applicant to provide child care.
3. If disqualifying information has been found, the applicant is informed in writing of the nature of the disqualifying information. The Department is informed in writing only that disqualifying information has been found.
4. Upon receipt of notification that disqualifying information has been discovered, the Department immediately notifies the applicant/employee in writing that he/she will not be hired.
5. The notification letter informs the applicant of the right to appeal in conformance with Complaints and Appeals and Criminal Record Background Checks, Disqualifying Information § 1.9.6 of this Part.

F. If the prospective employee, volunteer, intern, or consultant has undergone a nationwide criminal records background check within the previous six (6) months of application for employment, the Department may accept a letter from the Bureau of Criminal Identification verifying the date and results of the check.

#### **1.8.5 Appeals of Denial/Revocation of Licensure or Denial/Termination of Employment**

A. If an individual is disqualified for the arrest and/or conviction for any Level 1 Offense (refer to Criminal Record Background Checks, Disqualifying Information, § 1.9.6(A) of this Part), that individual has a right to appeal the denial or revocation of a license or the denial or termination of employment for the purpose of demonstrating that he or she has not been arrested and/or convicted for such an offense.

1. Within thirty (30) days of receipt of an adverse agency decision, the applicant/employee must inform the Department of his or her intent to appeal by filing a Formal Request for an Appeal with the Executive Office of Health and Human Services.
  - a. The applicant/employee must attach a copy of his/her disqualifying information report, which identifies the specific disqualifying offense(s).



b. The applicant/employee provides evidence that he or she has not been arrested and/or convicted of any Level 1 offense.

2. The Hearing Officer reviews the materials submitted on behalf of the applicant/employee and conducts the appeal process and provides a written decision in accordance with timeframes and procedures established in § 1.10 of this Part, Complaints and Appeals.

B. If an individual is disqualified for the arrest and/or conviction for any Level 2 Offense (refer to Criminal Record Background Checks, Disqualifying Information, § 1.9.6(B) of this Part), that individual has a right to appeal the denial or revocation of a license or the denial or termination of employment for the purpose of demonstrating his/her long standing record of excellence in child care.

1. An applicant/employee must inform the Department within thirty (30) days of receipt of an adverse agency decision, of his/her intent to appeal by filing a Formal Request for a Hearing.

2. The applicant/employee must attach a copy of his/her disqualifying information report, which identifies the specific disqualifying offense(s).

3. The applicant/employee must provide written references attesting to the applicant's long-standing record of excellence in child care. Such references must be from individuals who are qualified by virtue of education and/or experience to testify to the abilities of the applicant/employee. Such individuals include:

a. Licensed child care providers;

b. Current or previous child care professionals; and

c. Other professionals with credentials to effectively judge the applicant's qualifications in providing child care.

#### **1.8.6 Criminal Record Background Checks- Disqualifying Information**

##### **A. LEVEL 1 OFFENSES**

1. If an individual is disqualified for the arrest and/or conviction for any of the following offenses, that individual has a right to appeal for the purpose of demonstrating that he or she has not been arrested and/or convicted for such an offense.

a. 1st degree Felony Child Abuse or Neglect

b. 2nd degree Felony Child Abuse or Neglect

c. Felony Committed Against a Child

- (1) 1st Degree Child Molestation
- (2) 2nd Degree Child Molestation
- (3) Child Pornography
- (4) Circulation of obscene publications and shows
- (5) Sale or exhibition to minor of Indecent publications, pictures or articles
- (6) Child nudity in publication
- (7) Transportation for indecent purposes
- (8) Harboring
- (9) Sex trafficking
- (10) Pandering
- (11) Deriving support or maintenance from prostitution

d. Felony drug offense committed less than five (5) years ago

e. Felony Involving Violence

- (1) Murder
- (2) Manslaughter
- (3) Rape
- (4) 1st degree Sexual Assault
- (5) 2nd Degree Sexual Assault
- (6) Kidnapping
- (7) Car-Jacking
- (8) 1st Degree Arson
- (9) 2nd Degree Arson
- (10) Mayhem

(11) Felony Assault committed less than five (5) years ago

(12) Felony Battery committed less than five (5) years ago

B. LEVEL 2 OFFENSES

1. If an individual is disqualified for the arrest and/or conviction for any of the following offenses, that individual has a right to appeal for the purpose of demonstrating his or her long standing record of excellence in child care.

a. Felony Assault committed over five (5) years ago

b. Felony Battery committed over five (5) years ago

c. Robbery

d. Breaking and Entering

e. Burglary

f. Illegal Possession of a Firearm over five (5) years ago

g. Misdemeanor Domestic Assault over five (5) years ago

h. 3rd Degree Sexual Assault

i. Felony Drug Offense committed over five (5) years ago

j. Prostitution

2. If an individual is disqualified for the arrest and/or conviction for any of the following offenses, when the offense does not involve a child, that individual has a right to appeal for the purpose of demonstrating his or her long standing record of excellence in child care.

a. Transportation for Indecent purposes

b. Harboring

c. Pandering

d. Deriving support or maintenance from prostitution

e. Circulation of obscene publications and shows

## **1.9 Employment Background Checks: Facility Operators/Employees and Family Child Care Operators/Employees**

- A. In accordance with R.I. Gen. Laws Chapter 40-13.2, any person seeking to operate a residential care facility, child care center, family child care home or community based program which is licensed by the Department submits an affidavit to the Department providing information relating to individual employment history including a list of all positions held within three (3) years prior to application for licensing.
- B. R.I. Gen. Laws Chapter 40-13.2 also mandates the person operating a facility which is licensed or registered with the Department to require all persons seeking employment in positions which involve supervisory or disciplinary power over or routine contact with a child(ren) without the presence of other employees to submit a similar affidavit. This affidavit must be submitted to the employer prior to employment. The Department assumes responsibility for ensuring employment background checks for family child care operators and employees.
1. The facility operator/Family child Care Operators/Employees completes the Employment History Affidavit:
- a. The facility operator/Family child Care Operators/Employees identifies place(s) of employment, address(es), date(s), and supervisor(s) for the past thirty-six (36) months. Employment includes part-time, full-time, and/or volunteer.
- b. If the facility operator/Family child Care Operators/Employees has not been continuously employed for the past thirty-six (36) months, he/she completes the affidavit stating that he/she has not been employed and notes the dates he/she was unemployed.
- c. Licensing staff verifies employment information listed on the Employment History Affidavit for a period of twelve (12) months prior to application.
- d. The employment information received is one of the factors utilized when making a determination for licensing.
- C. The facility operator/Family child Care Operators/Employees ensures that all prospective, full or part-time staff, volunteers or consultants, who have supervisory or disciplinary power over or routine contact with child(ren) without the presence of other employees complete and submit an Employment History Affidavit. Full or part time positions which require Employment History Affidavit prospectively include but are not limited to:

1. Child care workers;
2. Child care supervisors;
3. Maintenance, transportation, kitchen, clerical workers;
4. Counselors, therapists, social workers, clinicians;
5. Teachers, aides, principals;
6. Administrators, coordinators, directors; and
7. Volunteers or consultants.

D. The facility operator/Family child Care Operators/Employees ensures that prospective employees, volunteers and consultants (as described in § 1.10(C) of this Part) complete the Employment History Affidavit (Form #108):

1. The prospective employee, volunteer or consultant identifies place(s) of employment, address(es), date(s), and supervisor(s) for the past thirty-six (36) months. Employment includes part-time, full-time, and/or volunteer.
2. If the prospective employee, volunteer or consultant has not been continuously employed for the past thirty-six (36) months, he/she completes the affidavit stating that he/she has not been employed and notes the dates he/she was unemployed.
3. The facility operator verifies employment information listed on the Employment History Affidavit for a period of twelve (12) months prior to application.
4. The employment information received is one of the factors utilized when making a determination for hiring.
5. The facility operator places the Employment History Affidavit and the written response in the personnel file immediately upon receipt. This information is a permanent part of the personnel file.

E. The facility operator's/Family child Care Operators'/Employees' failure to require the employment background check or failure to maintain the Employment History Affidavit and the written verification on file constitutes grounds to revoke the license of the operator.

## **1.10 Complaints and Appeals**

- A. The Department has a responsibility to inform all persons receiving services or persons seeking to receive services, licensees or prospective licensees and any person "indicated" as a result of a child abuse and/or neglect investigation of the right to an agency appeal to the Executive Office of Health and Human Services (EOHHS) Hearing Officer or, if they are not satisfied with the agency decision, of their subsequent right of appeal to the appropriate judicial forum.
- B. An attempt should be made to resolve complaints at the level where the decision was made through a discussion with the staff who made the decision and/or the staff's supervisor or administrator prior to filing a formal appeal with EOHHS. The EOHHS Hearing Officer provides an opportunity for any of the above named in § 1.11(A) of this Part to be heard through a formal procedure for review of any Department decision when efforts at informal resolution with the Department have not been successful.
- C. A complaint is any oral or written request for remedy made to a Department staff person in the field or office or to supervisory or administrative staff, concerning the administration of Department policies and programs, in which the legal rights, duties, or privileges of a specific person are required by law to be determined by the Department. Such complaints may include but are not limited to:
1. Visitation;
  2. Placement or removal of children from foster homes;
  3. Disagreement in case planning;
  4. Claims of discrimination based on age, handicap, sex, race, religion, national origin, or color;
  5. Licensing Issues;
  6. Certification issues; or
  7. Indicated child abuse or neglect findings.

## **1.11 Confidentiality**

- A. The Department keeps confidential all information received from and/or about persons with whom the Department is currently and/or was previously involved or otherwise has knowledge.

1. Access to such information is governed by various state and federal laws and regulations and by Department policy.

2. Access is limited to authorized individuals and/or agencies/institutions, both public and private, on a need and a right to know basis.

B. Unauthorized disclosure of confidential information could result in a fine and/or imprisonment as prescribed by state and federal laws and/or other administrative sanctions as prescribed by the Department.

#### **1.11.1 Access to Information Contained in Department Service Records**

A. Department service records include all hardcopy and electronic records originating in Child Protective Services, Family Services, and Juvenile Corrections including Probation and the Rhode Island Training School.

B. Such information is maintained in secure, confidential files and includes all case recordings, correspondence, placement information, Family Court or other legal documentation, medical, scholastic and other evaluative material, and/or any other information generated and maintained by the Department or its agents or received from other sources.

C. Access to information contained in these service records must be preceded by a properly completed release of confidential information or by order from a court.

D. Release of confidential information by Department personnel is limited to only that information which was specifically generated by the Department or its agents. Confidential information contained in Departmental files which was requested and/or received from other sources (such as psychiatric/psychological evaluations, school records) remains the property of the originating source and can only be released by that source, with the express written or verbal permission of that source.

E. The following individuals or agencies can obtain certain confidential information from Departmental records with the consent of the Director or his/her designee:

1. Media/press;

2. Persons authorized to perform audits or bona fide research;

3. Legislators or other public officials;

4. Law enforcement officers;

5. Employees of the Department of Children, Youth, and Families if needed in the performance of their duties;

6. Educational surrogate parent/advocates if the information relates to educational matters;
7. Juvenile prosecutor if the information specifically relates to the offense with which the child has been charged;
8. CASA attorneys and volunteers;
9. Foster parents/child care providers if the information specifically relates to educational, medical, specific personal characteristics, and/or involvement in the juvenile justice system; and
10. Other individuals or agencies deemed solely by the Director to have a need and a right to know such information.

F. Requests for confidential information from certain individuals noted above are responded to by the proper staff person on a need and right to know basis:

1. Audit/research requests are made in writing and presented to the Director or his/her administrative designee for approval.
2. Media/press requests are directed to the Chief of Staff, the Director, or designee.
3. Requests from legislators or other public officials, unless otherwise authorized by the Director or his/her designee, are responded to only upon the receipt of a valid confidential release.
4. The Department can release all abuse/neglect reports on an individual or family contained on the Call Floor to law enforcement officers if such officers are investigating a report of known or suspected child abuse or neglect.

### **1.11.2 Access to Restricted Information**

A. Access to certain information, due to its particularly sensitive nature, is restricted by law even with a properly completed release of confidential information. Such information can only be disclosed to the court by means of a subpoena or other valid court order or to select others as specified by law. Any disclosure of restricted information must first be approved by the Department's Legal Counsel.

B. Restricted information includes:

1. Termination of Parental Rights/Adoption Material

a. Information includes:



- (1) Identifying data regarding the child's family of origin such as name of parent(s), name of sibling(s), previous known addresses, etc.);
- (2) Identifying data regarding the adoptive family (such as names, addresses, etc.);
- (3) Placement/social material subsequent to termination of parental rights; and
- (4) Specific medical, psychological, psychiatric, scholastic, or other information.

2. Reporter/Source information and/or information provided by confidential sources.

3. Juvenile Arrest/Conviction/Detention Material

a. Information includes:

- (1) Copies of police reports and/or petitions charging a child with a criminal offense;
- (2) Copies and/or summaries of records of the Court involving the disposition of criminal charges against a child; and
- (3) Records of any juvenile detention facility where a child was admitted/remanded due to alleged and/or proven criminal activity.

4. Mental Health Records

a. Information includes:

- (1) Psychiatric/psychological records and/or reports, including diagnostic, evaluative, and/or treatment material, regarding a child remanded to a juvenile correctional facility;
- (2) Psychiatric/psychological records and/or reports including diagnostic, evaluative, and/or treatment material of children referred to the Department for the purpose of Children's Mental Health Programs, Mental Health Services for Children and Youth screening and/or other services; and

- (3) Any other diagnostic/evaluative/treatment records and/or reports, in patient or out patient, to which the Department has access or the Department maintains.

### **1.11.3 Access to Information Contained in Licensing Records**

- A. Records maintained by the Licensing and Placement Units contain background information and other documentation regarding the licensing of foster/day care homes and facilities as well as documentation in support of requests for placement of children.
- B. As mandated for most other records maintained by the Department, access to information contained in these records is limited to specific individuals or agencies who have a need and a right to know such information.

### **1.11.4 Confidential Information Requests Received Through Masterfile**

- A. The following professionals have limited access over the telephone to specific information contained in Masterfile:
1. Other state employees (social work, supervisory, and administrative staff of DHS, BHDDH, etc.);
  2. School Department/Headstart (Student Relations/Social Services, Administration, Principals);
  3. Physicians/Hospitals/Clinics (Social Services, Administration, Clinical Staff);
  4. Visiting Nurse Association;
  5. Mental Health Professionals (Counselors, Psychologists, Psychiatrists, Administration);
  6. Comprehensive Emergency Services (Service Staff, Administration);
  7. Police (City and State);
  8. Family Court (including CASA);
  9. Office of the Child Advocate; and
  10. Department Vendors (foster parents, group home staff, etc. limited to children presently in their care).

B. The above-named professionals may be given limited verbal information provided their identity is properly verified prior to release and it has been clearly established that they have a need and a right to know such information.

1. Masterfile employees may then only verify that the Department is currently involved and provide the name and phone number of the assigned worker and supervisor or they may verify that the Department is not currently active.

2. No information about previous Department activity or other case related information may be provided by Masterfile employees over the telephone.

3. Any of these professionals who request additional information about a currently active case are referred to the assigned worker or supervisor by Masterfile employees.

4. If they request information about a closed case, Masterfile employees will, without confirming or denying Department activity, instruct them to send a written request with a signed confidential release to Information Systems, Division of Management and Budgeting.

5. All others who call through Masterfile seeking information (such as clients, attorneys, relatives) are informed that such information is confidential and cannot be released over the telephone.

6. If the caller insists on pursuing such information, Masterfile employees may, without confirming or denying Department activity or guaranteeing results, instruct the caller to send a written request to Information Systems, Division of Management and Budgeting and/or leave their name, address, telephone number, and information sought.

#### **1.11.5 Child Fatality and Near Fatality Public Disclosures**

A. Under most circumstances, information from child abuse and neglect records may not be disclosed to the public. However, if requested, some disclosure of information is permitted in cases in which abuse or neglect of the child has resulted in a child fatality or near fatality.

B. The information that is disclosed may include the following:

1. The child's age and gender;

2. The cause of the fatality or near fatality if it has been determined;

3. The date of the fatality or near fatality;

- 4. The alleged offender's relationship with the child; and
- 5. A summary of any previous child maltreatment reports and investigations.
- C. The Department Director or his or her designee discloses all investigative findings to the Office of the Child Advocate within five (5) business days of the completed investigation when there is a substantiated finding of child abuse or neglect that resulted in a child fatality or near fatality.

## **1.12 Child Support Enforcement**

- A. The Department is obligated to pay for the support and maintenance of a child in any placement whether public or private or under a purchase of services agreement. Parental responsibility is not eliminated by the voluntary or involuntary placement of a child outside his/her home and family. Whenever the Department pays for the support of a child in the care of the Department, the parents of the child are responsible to contribute to the cost of the child's care. The failure or refusal of a parent to comply with a Family Court order for child support does not result in a denial of services to the child.
- B. The Department shall make referrals for child support enforcement to the Department of Human Services Office of Child Support Services (OCSS).
- C. The OCSS, in accordance with the provisions of R.I. Gen. Laws § 15-9-3, represents the Department in any Family Court proceedings relating to child support enforcement. The responsibilities of the respective Departments and of the Rhode Island Family Court are set forth in an Interagency Cooperative Agreement executed by and between the Family Court, the Department of Administration and the Department of Children, Youth and Families.
- D. One or both parents, owing a duty of support, are ordered by the Family Court to pay an amount based upon a formula and guidelines adopted by an administrative order of the Family Court. The formula and guidelines have been established in compliance with federal law, which provide that each state establishes guidelines for child support award amounts. The intent is to maintain family responsibility and commitment to the child by using guidelines which are fair and equitable and which will not result in family impoverishment or conflict with the goal of reunification of the family. Once established, the obligation remains in effect until the child leaves the Department paid placement or until a change in circumstance warrants an adjustment in the application of the guidelines.

### **1.13 Request for a Change of Worker**

- A. Cases are assigned according to the needs and geographical location of the family and assignment is made in accordance with caseload agreements.
- B. The case reassignment of Department staff is rare and only occurs when it is apparent that the worker/client relationship is an impediment to the achievement of the case plan goal and it is in the best interests of the child.
- C. It is the responsibility of the Department to inform all prospective clients, persons receiving service, and service providers of the right to an appeal and, if there is dissatisfaction with the decision, of the subsequent right of appeal to the Family Court.

### **1.14 Nondiscrimination**

- A. The Department ensures nondiscrimination and equal opportunity to all persons.
- B. Each program or activity for which the Department receives federal financial assistance is operated in accordance with this section. No individual, on the grounds of race, color, national origin, age, handicap (including impaired vision or hearing), sex, sexual orientation, religious belief, or political belief, is excluded from participation in, denied the benefits of, or subjected to discrimination under any of the Department's programs or activities. The prohibition against discriminatory practices extends also to services purchased or obtained by the Department for other agencies, organizations, and institutions; for the beneficiaries of the program; and for the treatment of clients in facilities in which such services are provided.
- C. The Department strictly prohibits discrimination on the basis of actual or perceived race, color, religion, ancestry, national origin, age, gender, sexual orientation, gender identity or expression, socioeconomic status or disability or by association with an individual or group who has or is perceived to have one or more of such characteristics.
- D. The Department requires staff and service providers to respect the dignity of lesbian, gay, bisexual, transgender, queer, questioning and intersex (hereinafter, LGBTQQI) youth. The Department, its staff, providers, interns and/or volunteers offer services and interventions to youth without regard to actual or perceived sexual orientation, gender identity or expression. LGBTQQI youth receive fair and equal treatment in a professional and confidential manner based on Department policy, state and federal law and regulation and principles of sound professional practice, including culturally competent mental health and medical care. LGBTQQI youth are protected from verbal, physical and/or sexual

harassment or assault based on actual or perceived sexual orientation, gender identity or expression.

#### **1.14.1 Grievance Procedures**

A. An individual who wishes to allege discrimination has several options, one or more of which may be pursued simultaneously:

1. File a complaint with the Department;
2. File a complaint with the State Equal Opportunity Office;
3. File a complaint with the Rhode Island Commission for Human Rights;
4. Appeal an Agency Decision to the EOHHS Hearing Officer. He/she may raise civil rights issues through the Administrative Hearing Process;
5. File a complaint with office of the appropriate federal funding agency; and
6. File a lawsuit alleging civil rights violations in State or Federal Court.

#### **1.15 Department Funded Mental Health Services**

The Department provides for community mental health services for eligible children and youth, in accordance with the Department of Children, Youth and Families Guidance for DCYF Funded Medicaid Services.

#### **1.16 Family Care Community Partnership (FCCP) Referral**

A. The Department promotes, safeguards and protects the overall well-being of culturally diverse children, youth and families and the communities in which they live through a partnership with families, communities and government. The Family Care Community Partnership (FCCP) assists the Department by implementing a wraparound approach at the community level for families that are referred for service.

B. The FCCP delivers family supports and services for children, youth and families who are at risk for involvement or, in specified situations, are involved with the Department.

C. Each of the following three populations of children and families is eligible to access services and supports through the FCCP.

1. Families at risk for Department involvement through investigations identifying issues of child abuse, neglect and/or dependency.

2. Families who have received FCCP services and then open to the Department with legal status if the child or children remain home and receive services and if referred by the Department and deemed in the best interest of the family in the sole discretion of the Department.
3. Children, birth to age eighteen (18) years old, who meet criteria for having a serious emotional disturbance (SED) or a diagnosis based on the current edition of the DSM/DC: 0-3.
4. Children and youth experiencing mental health and behavioral health issues or concerns.
5. Youth in the community at risk of becoming involved with the Juvenile Justice system including Youth Diversionary Program and Wayward and Disobedient youth.
6. Youth concluding sentence to the Rhode Island Training School (RITS) who agree to participate, including youth leaving the RITS and youth leaving temporary community placement.

D. The following factors are considered prior to making an FCCP referral:

1. History of case;
2. Similarity of the indicated instances of child abuse, neglect or maltreatment;
3. Progress in addressing the identified issue/in working with community resources, including the FCCP, since the last indication/case opening/removal of a child from home;
4. Protective capacity of the family;
5. Motivation to change;
6. Admission of the presenting issue; and
7. Presence of repeated instances of domestic violence, mental health needs and/or substance abuse needs/relapse.

E. If the caregiver refuses to cooperate with the FCCP and/or does not demonstrate protective capacity, the case is not referred to the FCCP. The Department may:

1. Seek a straight petition if the child can be maintained at home with a safety plan or

2. Seek an ex parte if the child cannot be maintained safely in the home.

#### **1.16.1 Client Rights and Grievances Procedures**

A. The FCCP Lead will have client rights and grievance procedures in place that ensure that the rights of every client are honored and respected in regard to the client's personal well-being and the provision of services.

1. The client will be informed of client rights and grievances procedures verbally and in writing in a language that the client can understand.

2. If the client does not speak English, a bi-lingual staff person or an interpreter who can effectively and appropriately convey the information to the client, must be provided.

B. The client may appeal an FCCP action or decision to the Department in accordance with § 1.11 of this Part, Complaints and Appeals.

#### **1.17 Licensing of Foster Care Homes**

A. The Department makes every effort to maintain children in their own homes. When the home environment is clearly contrary to the child's best interests, care of the child outside of the home may be necessary to ensure the safety and wellbeing of the child.

B. The Department provides the child with an out of home placement which:

1. is least disruptive to the child and family;

2. includes the placement of siblings together unless the serious specific needs of one or more child justifies separation;

3. offers the child the most familiar and family-like setting possible; and

4. encourages and promotes stability and permanency for the child.

C. The Department gives utmost consideration to placing a child in a relative or kinship foster home prior to seeking a non-relative placement.

D. The Department places children who need placement outside of the natural home in licensed foster and adoptive homes or licensed group care facilities.

1. A child must not be placed in a non-kinship placement if that placement does not have an active license.



- 2. Licensed non-kinship foster homes that are pending license renewal are considered active.
- E. The Department's licensure process utilizes the same standards in licensing all kinship and non-relative prospective foster and adoptive homes.
- F. The Department encourages individuals of varying life styles to apply for a foster home license. The Department considers the prospective foster parent's interest and commitment to child caring, and willingness to assist and contribute to the development and growth of children, as well as the foster family's acceptance and support of the child(ren) into the family unit.
- G. The prospective foster parent must be twenty-one (21) years of age, must provide the Department with the information necessary to verify compliance with required standards, must participate in the foster care licensing study process and must complete foster parent training. Every licensed foster home is reevaluated and re-licensed every two (2) years in order to ensure that the home continues to meet the required standards, in accordance with the [Part 40-00-3 of this Chapter](#). Foster and Adoption Regulations for Licensure.

### **1.18 Foster Care Maintenance Payments**

The Department reassess the base rates for foster care maintenance considering the elements enumerated in 42 U.S.C. § 675(4)(A) to determine whether rate adjustments are needed and, if necessary based upon that reassessment, will advocate for additional appropriations from the General Assembly to increase the base rate. The Department will conduct a reassessment every three (3) years.

### **1.19 Notification of Critical Information Pertaining to Children in the Department's Care**

- A. All out of home placement providers are required to notify the Department of important information pertaining to children in the Department's care. Critical incidents such as serious injury, serious illness, child fatality, or near fatality must be reported immediately to the parent/guardian of the child and the Department. In the event of a child fatality or life-threatening injury/illness of a child in the Department's care, the Director of the Department must be notified immediately.
- B. When a child has been subjected to alleged abuse or neglect or has been the alleged victim of assault or other physical or sexual abuse the report must go to the CPS Call Floor.
- C. The out of home provider makes immediate verbal notification to the Department of any of the following critical incidents involving a child in the Department's care.

The primary service worker/ supervisor is notified during standard work hours. The Department's CPS Hotline (1-800-RI CHILD) is notified after hours (4:00 P.M. to 8:30 A.M. Monday through Friday, weekends, and holidays) in the event of:

1. A serious injury/illness involving medical treatment of the child;
2. suicidal or homicidal attempts by the child;
3. death of a child;
4. unauthorized absence of the child from the home;
5. removal of the child from the home/program by any person or agency other than the placing agency, or any attempts at such removal;
6. any fire or other emergency requiring assistance from local fire or rescue personnel;
7. any exclusion of a child from school or serious involvement with police authorities; and
8. a physician's order requiring a child to be force-fed or otherwise coerced to eat against his/her will.

D. The out of home provider must inform the Department as soon as possible, but not more than five (5) working days, following any circumstance listed below:

1. Serious illness or death of other members of the household;
2. The permanent departure of any member of the household; or
3. Any circumstance or incident seriously affecting the children or child care.

## **1.20 Services for Youth Exhibiting Wayward/Disobedient Behavior**

A. The Department is responsible for planning, developing, coordinating and monitoring a program that offers appropriate assessment and treatment services to families and children prior to the filing of a wayward/disobedient petition in Family Court.

B. Children and Youth Not Involved with the Department

1. When a parent or guardian wishes to file a complaint alleging that a child in his or her care, who is not active with the Department, is wayward by

virtue of disobedient behavior, he/ she contacts the local police department in the city or town in which he/ she resides.

2. The local law enforcement agency will, after reviewing the matter, immediately refer the family for community-based assessment and treatment services.
3. If the family is referred for community-based services, the law enforcement agency ensures that the following are completed:

  - a. The parent or guardian must sign the Documentation of Services (Filing Procedure for Wayward/Disobedient Charges in Family Court).
  - b. The signed form (Form #197) is then given to the parent.
  - c. The parent/guardian must contact the designated agency for an initial screening/assessment and provide the community-based service provider approved by the Department with the form.
4. After the family initiates contact, the agency will do the following:

  - a. Arrange an intake/assessment meeting with the family and child to take place within one week of parental request.
  - b. Determine if there have been any prior interventions.
  - c. Complete a current assessment of the family problems and develop a plan to assist the family's functioning.
  - d. Engage the family in a course of treatment/intervention and/or refer them to a more appropriate agency. If the family is referred to another agency, the referring agency will continue to monitor the case.
5. If a family has engaged in recent service delivery without success, the approved community-based agency must complete an assessment with full consideration of the family's previous treatment history. The approved agency will determine if there are any other services available in the community that may be effective in treating the family.
6. If the interventions of the approved community-based agency are successful, there is no need for further police involvement.

7. If, however, after the approved agency has made sufficient contact and determined that the family issues require court involvement and/or the child is unresponsive to the service delivery, the agency will:
  - a. Document the intervention and make recommendations on the Form #197 to the parent(s) or guardian(s).
  - b. Provide to the parent(s) or guardian(s) the Form #197, which contains a summary report of interventions and recommendations.
  - c. The parent(s) or guardian(s) may choose to bring the Form #197 back to the police to pursue the filing of a wayward/disobedient petition.
  - d. Maintain a confidential record in accordance with its agency policy.

C. Children Active with the Department with No Legal Status

1. If a parent wishes to file a wayward/disobedient petition and the Department concurs, the assigned Department worker will assist the parent by documenting on the Form #197 that assessment and services have been attempted and have not been successful.
2. Parents can take the completed Form #197 to their local police Department to pursue the filing of the wayward/disobedient petition.

**1.21 Federal Benefits for Children in the Department's Care**

- A. The Department is the designated single-state agency entitled to submit claims for Title IV-E reimbursement in Rhode Island.
- B. The Department is responsible to determine which children are eligible for Title IV-E reimbursement based on federal criteria and which costs meet the eligibility criteria for administering the Title IV-E program.
- C. Title IV-E of the Social Security Act provides assistance to state child welfare agencies rendering services to children in need of care. Under Title IV-E, the federal government shares the cost in caring for financially deprived children who are placed in substitute care. Title IV-E reimbursement covers payments made for foster care (both voluntary placements and court ordered placements), adoption subsidy, guardianship subsidy and administrative costs incurred in the process of placing and maintaining children in alternative, protective settings.

- D. To ensure uninterrupted delivery of medical care, Department staff will secure the most appropriate medical coverage for the child within forty- eight (48) hours of the child entering placement.

## **1.22 Protecting and Identifying Victims of Sex Trafficking**

- A. The Department, in partnership with the community and other organizations, is responsible to investigate, identify, and support children who are victims of sex trafficking or at risk of being a victim of sex trafficking, and to prevent further exploitation of youth by ensuring access to appropriate interventions, treatment, and protections.
- B. The Department has collaborated with local, state and federal law enforcement agencies, community providers, the Aubin Center at Hasbro Children's Hospital, the Attorney General's Office, and other social service organizations to ensure youth that have been identified as victims of sex trafficking receive the appropriate treatment and support.

## **1.23 Prison Rape Elimination Act**

- A. The Department complies with the federal Prison Rape Elimination Act (PREA) to provide a safe and therapeutic environment for all youth. Department Operating Procedures outline and implement a comprehensive approach to preventing, detecting and responding to sexual abuse, including voyeurism, and sexual harassment.
- B. Any physical contact of a sexual or sexualized nature between any RITS provider, vendor, contractor, volunteer, or staff toward a youth detained or adjudicated at the RITS is deemed abusive; such contact is reported to the CPS Hotline and is investigated.
  - 1. The Department has zero tolerance for voyeurism or sexual harassment by any Department provider, contractor, volunteer or staff toward a youth detained or adjudicated at the RITS and includes voyeurism and/or sexual harassment as a form of sexual abuse.
- C. Any Department staff engaging in sexual abuse or harassment toward a child/youth in care or detained or adjudicated at the RITS is subject to discipline up to and including dismissal without warning and referred to law enforcement agencies unless the activity was clearly not criminal, and to relevant licensing bodies, as appropriate.
- D. Any contractor, provider, intern or volunteer who violates Department sexual abuse or harassment policies is prohibited from contact with residents and

reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies, as appropriate.

## **1.24 Public Information and Relations**

A. The Department encourages open lines of communication with outside individuals and groups to enhance the public's understanding of the needs and strengths of the children, youth and families that we serve and an appreciation of the Department's mission and operations. All inquiries and responses and other public relations activities are coordinated through the Department's Chief of Staff to ensure the confidentiality of children, youth and families and to ensure the consistency and accuracy of information released.

B. Inquiries from the Media or Legislators

1. During standard work hours (Monday - Friday, 8:30 A.M. to 4:00 P.M.), all inquiries are referred to the Department's Chief of Staff in the Office of the Director.

2. During non-standard work hours, all inquiries should be forwarded to the DCYF Child Protective Services (CPS) Hotline (1-800-RI CHILD).

C. Speaking Engagements

1. Requests for presentations by Department staff are forwarded to the Chief of Staff.

D. Requests for Information and/or Tours

1. All inquiries from the general public, private or public agencies and organizations, civic groups, students and professionals relating to information on the overall programs and services of the Department are referred to the Director's Office.

2. Requests for tours of Department buildings or facilities are coordinated by the Chief of Staff.

## **1.25 Media Interviewing or Photographing Children in Care**

A. On occasion, the media may request to interview or photograph a child or youth in the care of the Department. To ensure the confidentiality of children, youth and families, photographs or visual representations depicting faces or allowing for recognition of the individuals are not allowed for publicity or any other reason unless the request is approved by the Department. The Department is

responsible to ensure that minimal program disruption occurs, that confidentiality is maintained and that the appropriate consents have been secured.

B. In addition to Department approval for a child or youth to be interviewed or photographed, the following consent requirements must be met:

1. If the child is under the age of fourteen (14), his/her parent, legal guardian and/or attorney can consent to an interview by signing the consent form.
2. If the child is age fourteen (14) or older, he/she and his/her parent, legal guardian and/or attorney can consent by signing the consent form.
3. If the youth is age eighteen (18) or older, he/she alone may consent and sign the form. His/her parent, legal guardian or attorney may also sign, but this is not required.