




pennsylvania
DEPARTMENT OF HUMAN SERVICES

TO: County Children and Youth Agencies
Private Children and Youth Social Services Agencies
Family Foster Care Agencies
Adoption Services Agencies
Child Residential and Day Treatment Facilities
Child Welfare Service Providers

FROM: Jonathan Rubin 
Deputy Secretary for Children, Youth and Families

RE: Guidance Regarding Suspension of Regulatory Requirements for OCYF Licensees During the COVID-19 Pandemic

DATE: **May 26, 2020**

County children and youth agencies (CCYA) and private providers are among those on the frontlines ensuring the safety and well-being of children across the Commonwealth. The Office of Children, Youth and Families (OCYF) recognizes the impact of the 2019 Novel Coronavirus (COVID-19) pandemic on providing the essential services rendered by these agencies as they work to adhere to public health guidelines necessary for the safety of all those they are serving and their workforce.

The COVID-19 pandemic has required changes across the child welfare system, with agencies seeking new alternatives for service delivery and programming to achieve the goals of safety, permanency and well-being for children. One notable example of this includes efforts to preserve the crucial connections between children in placement and their families. Many dependency courts have put jurisdiction-specific orders in place modifying court-ordered visitation and removing requirements for in-person, face-to-face contact. In response, agencies have moved to maintaining the majority of visits through the use of virtual technology.

Ensuring adequate placement options are available for children and youth who cannot remain safely in their homes continues to be a critical need with the COVID-19 pandemic presenting new challenges for maintaining operations of some placement resources. For example, as foster family care agencies have worked to complete annual re-evaluations of foster homes, flexibility has been needed in approaching completion of required reviews of the physical home while practicing appropriate social distancing.

The impact of COVID-19 on the healthcare system has also led CCYAs and providers to experience challenges in meeting some minimum health and safety requirements. Regulations currently require routine health examinations for children in placement, as

well as health assessments for foster parents and facility staff; however, timely completion of these examinations may be hindered by the healthcare system's necessary emphasis on testing and on those individuals who are being treated for COVID-19.

Providers of child residential treatment services have worked to modify procedures and practices to mitigate the risk of COVID-19 outbreaks within their facilities to continue to ensure the health and safety of their residents and staff. This has required flexibility in looking at physical configurations in facilities to practice social distancing, and if needed, quarantining, in accordance with guidance from the Centers for Disease Control (CDC) and the Pennsylvania Department of Health (DOH). Adequate staffing at these facilities is as critical as ever. Residents diagnosed with COVID-19 experience increased levels of need, which leads to the need for increased care and support. Providers continue to work to hire and retain staff. However, completion of some ongoing training requirements such as the cardiac pulmonary resuscitation (CPR) certification presents challenges when such training is traditionally delivered in person.

On March 6, 2020, Governor Wolf issued a Proclamation of Disaster Emergency in response to the COVID-19 pandemic and to enable agencies to act promptly to address the pandemic. With the Governor's authorization as conferred in the proclamation, the Department of Human Services (DHS) has suspended the following regulatory provisions in 55 Pa. Code Chapters 3130, 3350, 3680, 3700 and 3800. In order to enable the child welfare system to respond to the unique challenges posed by the COVID-19 pandemic, OCYF is issuing the following guidance to licensees:

- Pertaining to 55 Pa. Code Chapters 3130 and 3680, DHS has suspended several regulatory provisions which outline requirements for visitation and communication policies. Specifically, flexibility will be afforded to agencies regarding requirements for parent and child visitation to be conducted in a location that will permit natural interaction, requirements related to changes in visitation and scheduling of make-up visits, and responsibility for providing transportation for in-person, face-to-face visits. CCYAs and providers must continue to follow court orders pertaining to child and parent visitation and work to meet minimum regulatory requirements that visits occur no less than once every two weeks. When in-person, face-to-face visits cannot be conducted in accordance with CDC and DOH guidelines for social distancing, efforts must be made to provide alternative methods of meaningful contact and these efforts must be documented in the case record.
- Regarding 55 Pa. Code Chapter 3800, DHS has suspended requirements that family and child visitation occur in person at a location convenient for the family. Facilities must continue to support visitation by providing alternatives to in-person, face-to-face contact no less frequently than once every two weeks and document these efforts. Similarly, requirements that children be permitted to visit in person with their attorney and clergy have been suspended. However, a child's rights to communicate privately with attorneys and clergy must be preserved.

Alternate methods of communication in lieu of in-person, face-to-face visits is permissible as long as privacy can be maintained and the reason in-person visits were not conducted is documented.

- To enable providers to adhere to social distancing guidelines, DHS has suspended certain regulation provisions under 55 Pa. Code Chapters 3680 and 3800 regarding staff training. Specifically, when in-person trainings cannot be conducted for staff and/or volunteers who are required by regulation to have refresher training for first aid, CPR, Heimlich techniques and passive restraint, alternative means of completing recertification should be explored and are acceptable in meeting requirements for recertification. Alternative means of training are also permissible to meet the requirement that staff who administer restrictive procedures shall have completed training within the past year. Directors, full-time, part-time and temporary staff of child residential facilities may also obtain required training on the care and management of children through venues that do not involve in-person, face-to-face interaction. Reasons why standard, in-person training could not be provided must be documented.
- For children entering placement or newly admitted into a child residential facility, efforts must be made to ensure initial medical and dental appraisals are completed within required timeframes. If an initial medical or dental appraisal cannot be completed within the required timeframe due to COVID-19, this must be documented and continued attempts made to complete the appraisal as soon as possible. All children in placement must continue to receive appropriate treatment for all medical and dental conditions. DHS has, however, suspended regulatory provisions in 55 Pa. Code Chapters 3700 and 3800 to provide flexibility around the completion of required routine, ongoing medical and dental assessments as well as hearing and vision screenings for children already in placement when access to such assessments is limited due to COVID-19 and cannot be completed via telehealth. If initial or routine assessments cannot be completed due to the COVID-19 pandemic, efforts to explore alternatives, including appointments via telehealth, must be documented in the child's case record. For routine, ongoing assessments that cannot be completed due to COVID-19, a grace period of up to 90 days from the time the emergency proclamation is lifted is permitted for obtaining the assessment.
- DHS has suspended certain foster family home regulatory requirements under 55 Pa. Code Chapter 3700 to provide flexibility in allowing foster parents to demonstrate that they meet certain minimum regulatory requirements for initial and ongoing approval as a foster family home. Specifically:
 - Efforts should still be made to ensure foster parents meet regulatory requirements pertaining to medical appraisals. However, when these appraisals cannot be completed due to COVID-19 and telehealth is unavailable, a grace period of up to 90 days from the time the emergency proclamation is lifted may be granted for meeting this requirement if the FFCA determines there are no observable indications that the foster parents are physically unable to care for children. All efforts to obtain the

medical appraisals, including use of telehealth, must be documented by the approving agency.

- When there are no prior concerns with the water in the foster family home being potable, required annual microbiological tests do not need to be completed when it is documented in the foster family record that a laboratory certified by the Department of Environmental Resources is unavailable.
- Alternative methods for completing required annual inspections of foster family homes should be explored to ensure adherence to social distancing guidelines set forth by the CDC and DOH. Foster family care agencies are permitted to utilize video tours of homes using telecommunications to ensure the entire home is inspected and deemed to be safe. Rationale for utilization of alternative methods must be documented in the foster family home record.
- Child residential facilities should implement practices to maintain appropriate levels of programming and service delivery, while adhering to social distancing guidelines issued by the CDC and DOH as well as any policies issued by DHS. This includes evaluating appropriateness of conducting activities that unnecessarily bring large groups of staff and residents together in one area. DHS has suspended certain regulatory provisions under 55 Pa. Code Chapter 3800 to promote resident and staff safety as follows:
 - Requirements for fire drills with regards to practicing the physical evacuation of residents and staff from the building are suspended. Consideration should be given to modifying how fire drills may be conducted when standard fire drills would result in the congregation of a large number of staff and residents in one area. In such instances, it is permissible to conduct drills that do not involve physical evacuation practice, but in which evacuation procedures are reviewed verbally with children and staff and this is documented. Smoke detectors and fire alarms should continue to be tested periodically to confirm that they remain in good operating condition and will have no mechanical malfunctions in the event of a fire. The facility must document any modifications to fire drills due to COVID-19.
 - Should an outbreak of COVID-19 occur among residents at a child residential facility, reconfiguration of the use of the physical space in the facility may be necessary to protect the health and safety of residents and to promote appropriate quarantining procedures. Therefore, DHS has suspended regulations that prohibit more than four children to share a bedroom, require at least one toilet for every six children, and require at least one sink and one bathtub or shower for every six children. Requirements that the distance of a child's bedroom from a bathtub, shower or toilet be no more than 200 feet as well as restriction on use of cots or portable beds have also been suspended. Although these regulations have been suspended, in any event that a facility needs to

make physical adjustments due to the COVID-19 pandemic that would result in non-compliance with regulatory requirements as outlined in 55 Pa. Code Chapter 3800, the OCYF Regional Office must be notified within 24 hours to review and approve these modifications.

- Specific to secure detention facilities, under 55 Pa. Code Chapter 3800, the required staff-to-child ratios remain in place and must be met. The requirement that no more than 12 children may be in a group at any one time has been suspended. Similarly, the requirement that no more than 12 children occupy a sleeping unit or area has also been suspended. Although these regulations have been suspended, in any event that a facility needs to make physical adjustments due to COVID-19 that would result in non-compliance with regulatory requirements as outlined in 55 Pa. Code Chapter 3800, the OCYF Regional Office must be notified within 24 hours to review and approve these modifications.
- Regulations requiring that three-month water testing be completed for child residential facilities not connected to a public water system has been suspended for such instances when it is documented that a laboratory certified by the Department of Environmental Protection is not available to conduct the testing and there have been no prior concerns with the water at the facility being potable.
- Child residential facilities should conduct screenings of staff for symptoms of COVID-19 and follow procedures for addressing staff who test positive for COVID-19 in accordance with DOH and CDC guidelines. DHS has, however, suspended, certain staff health assessment requirements under 55 Pa. Code 3800. At the discretion of the facility director, the suspension permits staff or volunteers who come into direct contact with children to be granted a grace period of up to 90 days from the time the emergency proclamation is lifted for providing the required annual certification that the person is free of serious communicable disease when timely access to appropriate medical professionals or telehealth utilized to secure the routine, annual certification cannot occur. All efforts to secure the certification and reasons why it could not be obtained timely must be documented in the staff personnel file.

The regulatory suspensions set forth above will remain in place while the proclamation of disaster emergency remains in effect or such other time as OCYF directs.

For regulations that have not been suspended under the disaster emergency proclamation, agencies may still submit a waiver request to OCYF to seek temporary relief on a case-by-case basis. These requests may be submitted to the appropriate OCYF Regional Office or directly to the OCYF waiver resource account at rapwocfywaivers@pa.gov. In deciding whether to issue citations involving circumstances where a regulatory requirement that has not been suspended cannot be met due to COVID-19, OCYF will consider reasonable efforts made to meet the requirement when justification is clearly documented in the case record.

A listing of all suspended regulatory requirements for DHS licensees will be posted to the DHS website after all DHS program offices have provided appropriate notification and guidance to their impacted licensees. Further questions regarding the information outlined in this memo should be directed to the appropriate OCYF Regional Office.

- c: Natalie Bates, Chief of Staff, OCYF
 Jennie Pettet, Director, OCYF Bureau of Children and Family Services
 Gloria Gilligan, Director, OCYF Bureau of Budget and Fiscal Support
 Amanda Dorris, Director, OCYF Bureau of Policy, Programs and Operations
 Charles Neff, Director, OCYF Bureau of Juvenile Justice Services
 Amber Kalp, Regional Director, Western OCYF
 Brian Waugh, Acting Regional Director, Northeast OCYF
 Gabrielle Williams, Regional Director, Central OCYF
 Shelly Neptune, Acting Regional Director, Southeast OCYF