

## NOTICE OF CHANGE

### Department of Children and Families Office of Child Welfare

**RULE NO.:** 65C-14.001, .003, .006-.007, .010, .014, .017-.018, .021-.023, .040, .048, .116

**CHAPTER TITLE:** Child-caring Agency Licensing

Notice is hereby given that the following changes have been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 41, No. 226, November 20, 2015, issue of the Florida Administrative Register.

#### **65C-14.001 Definitions**

(1) No change.

~~(2) “Gender,” “sex,” or “gender identity” means a person’s internal identification or self image as male or female. Gender identity may or may not correspond to the gender assigned to a person at birth that is listed on the person’s birth certificate. The terms “male,” “female,” or “nonbinary” describe how a person identifies.~~

~~(3) “Gender expression” refers to the way a person expresses gender through appearance, dress, grooming habits, mannerisms and other characteristics.~~

~~(2)~~(4) “Service Plan” means the goal-oriented, time limited, individualized program of action for a child and the child’s family developed by the child-caring ~~child placing~~ agency in cooperation with the child-placing agency or the child’s family.

~~(5) “Sexual orientation” means a person’s emotional, romantic, or sexual attraction to members of the same gender, a different gender, or any gender, e.g., homosexuality, heterosexuality, or bisexuality.~~

~~(6) “Transgender” means having a gender identity that is different than the person’s gender assigned at birth.~~

(7) through (8) are renumbered (3) through (4) No change.

#### **65C-14.003 Application and Licensing**

(1) through (3) No change.

(4) The Regional Licensing Authority (the Department) shall conduct a review of the application packet, facility, and all required documentation to ensure compliance with all rules in Rule Chapter 65C-14., F.A.C., prior to issuance of a license.

(5) No change.

### **65C-14.006 Administration and Organization**

(1) Statement of Purpose. The child-caring agency shall have a written ~~mission~~ statement of its purpose. The statement shall contain a description of all the services the child-caring agency provides and the methods of service delivery. The statement shall be available to the Department, referral sources, and the public on request.

(2) through (7) No change.

(8) The child-caring agency shall have a written grievance procedure which allows children in care or others to make complaints without fear of retaliation.

(a) The grievance ~~This procedure shall be written in a clear and simple manner. and shall be provided to children, parents or guardians, the Department and others upon request. The procedure must be explained to children and their families at the time of admission.~~

(b) The written grievance procedure shall be provided to:

1. The Department.

2. At the time of admission, the child, his or her parent or guardian, and the child's attorney and guardian ad litem, if appointed and requested.

3. Others, upon request.

(c) The procedure must be explained to children and their families at the time of admission.

(9) through (15) No change.

### **65C-14.007 Buildings, Grounds, Equipment, and Interior Accommodations**

(1) through (3) No change.

(4) Pools shall meet the requirements of Chapter 515, F.S., ~~and the administrative rules promulgated under Chapter 515, F.S.~~

(5) through (6) No change.

(7) Dining Area: The building or cottage shall have one (1) or more dining areas large enough to comfortably accommodate the number of children who reside there, as well as staff who dine with the children ~~persons who normally are served.~~

(8) Space shall be available for children to study quietly. ~~Where study areas exist they shall have tables, chairs,~~

~~lamps and bookshelves suitable for use by the children in care.~~

(9) through (17) No change.

(18) The facility shall have at least one (1) bedroom for every four (4) children. However, if the applicant or licensee, in a written request, demonstrates that it is in the best interest ~~the health, safety and welfare~~ of each child in a particular set of children in a particular circumstance to have ~~will not be adversely affected by having~~ more than four (4) children in a bedroom, the Department, upon on-site inspection, shall grant the request if it determines that the evidence and statement support the applicant's or licensee's request. The approval of the request shall be valid only for the particular set of children in the particular circumstances cited in the written request. The bedrooms shall have 50 square feet for the initial occupant and an additional 50 square feet for each additional occupant, and a ceiling height of at least 7 feet, 6 inches. Programs established prior to July 1, 1987 may utilize dormitory style bedrooms, but new construction or facilities applying for initial licensure must comply with the size and occupancy requirements.

(19) Children shall have the opportunity to personalize and decorate their bedrooms with furnishings and possessions.

(20) No change.

#### **65C-14.010 Safety, Sanitation, and Food Service Requirements**

(1) Prior to the issuance of a license or to relicensing, the facility shall be inspected by a representative of the Department, the county health unit, and the local fire department, or persons trained by the office of the State Fire Marshal in fire prevention and safety in accordance with state or local ordinances and codes. Written approval of health and sanitary conditions and fire prevention and protection measures must be on file. All residential child-caring facilities must comply with the health and sanitation standards set forth in ~~R~~rule Chapter 64E-12, F.A.C.

(2) Fire Safety.

(a) All child-caring agencies must be inspected annually by the local fire department or persons certified by the Division of the State Fire Marshal in fire prevention and safety in accordance with Rule Chapter 69A-41, F.A.C., Uniform Fire Safety Standards for Residential Child Care Facilities. A report of the inspections and approval must be on file with the Department prior to issuance of a license or relicensing of the facility.

(2)(b) through (2)(e) No change.

(3) through (5) No change.

(6) Food Service.

(a) The child-caring agency shall have a procedure for assign a staff member to the overall management of the food service. ~~If this person is not a professionally registered dietitian,~~ All menus shall be approved by a professionally registered dietitian for the particular population of the group home. Residential programs participating in the United States Department of Agriculture Food and Nutrition Service shall be considered to have met this requirement.

(6)(b) through (6)(d) No change.

(7) through (10) No change.

### **65C-14.014 Health and Medical Services**

(1) through (3) No change.

(4) All medical care beyond the provision of first aid shall be under the direction of a licensed medical professional operating within the scope of his or her license. ~~physician licensed under Chapter 458 or 459, F.S.~~

(5) through (9)(c)1. No change.

(9)(c)2. Reason for ~~over the counter~~ medication administration;

(9)(c)3. through (9)(c)4. No change.

(9)(c)5. Written acknowledgment by the child (by sSignature or initials) of receipt of child receiving the medication, when age appropriate;

(9)(c)6. through (9)(c)7. No change.

~~(d) Prescription medications shall be prescribed only by a duly licensed person.~~

(9)(e) No change.

(10) through (13) No change.

(14) The child-caring agency is responsible for meeting the physical health needs of each child in its care.

(a) The child-caring agency shall ensure that each child has an annual physical examination and follow-up care as recommended. For children under three (3) years, a well-child checkup shall be obtained in accordance with the American Academy of Pediatrics periodicity ~~periodicity~~ schedule.

(14)(b) through (14)(c) No change.

~~(15) The facility shall have at all times a staff member on duty trained to administer first aid and cardiopulmonary~~

~~resuscitation.~~

(15)(16) The child-caring agency, in conjunction with the case manager, shall provide or arrange for medically recommended glasses, hearing aids, prosthetic devices, corrective physical or dental devices, or equipment recommended by a physician for children in care.

(17) is renumbered (16) No change.

#### **65C-14.017 Child Abuse and Neglect and Incident Notification Procedures**

(1) The child-caring agency shall have and follow procedures for handling any suspected incidents of child abuse or neglect involving staff or residents.

(2) All suspected cases of child abuse and neglect shall be reported to the Florida Abuse Hotline in accordance with Chapter 39, F.S., including ~~critical~~ incidents of child-on-child sexual abuse ~~involving suspected child abuse and neglect~~.

(3) through (5) No change.

(6) The following critical incidents, defined in CF Operating Procedure No. 215-6, April 1, 2013, HRSR 0-10-1 dated January 1, 1986 which is herein incorporated by reference and available at [www.dcf.state.fl.us/admin/publications/cfops](http://www.dcf.state.fl.us/admin/publications/cfops), shall be reported ~~to leadership~~ in accordance with the child-placing agency's local incident reporting procedures for children in the care and custody of the Department:

(6)(a) through (6)(f) No change.

(6)(g) Missing child or young adult.

(6)(h) through (6)(l) No change.

(7) through (9) No change.

Rulemaking Authority 409.175(5)(a) FS. Law Implemented 409.175(5)(a)1., 10. FS. History—New 7-1-87, Formerly 10M-9.026. Amended

#### **65C-14.018 Individual Needs of Children in Care**

(1) through (2) No change.

(3) ~~Recreation, Leisure Activities, and Employment.~~

(a) The facility shall have a log calendar of available indoor and outdoor recreational ~~and leisure~~ activities.

Such activities shall be based on the group and individual interests and needs of the children in care.

~~(b) A reasonable and prudent parent standard, in accordance with Section 409.145(3), F.S., shall be applied in determining the level of supervision needed for recreational and leisure activities.~~

~~(c) If a child is employed, the child's employment shall be incorporated into the child's service or treatment plan.~~

(3)(d) is renumbered (4) No change.

(3)(e) is renumbered (5) No change.

~~(6)(4)~~The child-caring agency shall ensure that each child has the individual items necessary for personal hygiene and grooming.

(a) These items shall be accessible to each child unless it is unsafe for the child.

(b) Each child shall have and has training in personal care, hygiene, and grooming appropriate to the child's age, gender, race, culture and development. Children whose gender identity does not match their gender assigned at birth shall not be denied access to items necessary for or training regarding personal hygiene and grooming that are consistent with their gender identity or expression.

(7) The child-caring agency shall ensure that each child has clean, well fitting, seasonal clothing, appropriate to the child's age and individual needs.

~~(8)(5)~~ The child-caring agency shall involve the child in the selection, care and maintenance of the child's personal clothing, as appropriate to the child's age and ability. The child-caring agency shall allow a child to possess and bring personal belongings. The child-caring agency may limit or supervise the use of these items while the child is in care using with the reasonable and prudent parent standard in accordance with Section 409.145(3), F.S.; ~~however, it may not restrict items based on the child's gender identity or expression.~~

~~(9)(6)~~ The child-caring agency shall send all personal clothing and belongings with the child when the child leaves the facility or will return clothing and personal items to the child-placing agency, parent or guardian, or child's attorney or guardian ad litem, when applicable.

~~(10)(7)~~ A child and the child's parent or legal guardian (unless parental rights have been terminated by a court of competent jurisdiction) have the right to determine the child's religious affiliation.

(a) Child-caring agencies operating under religious auspices shall have the written permission of the child and child's parent or guardian if the child is required to attend religious services. If the parent or guardian is not able to

be located to give consent, efforts to contact the parent or guardian shall be documented in the child's file.

(10)(b) No change.

~~(8) The child-caring agency shall ensure that each child has clean, well fitting, seasonal clothing, appropriate to the child's age and individual needs.~~

~~(11)(9)~~ Allowance

(a) The child-caring agency shall provide opportunities for children placed by the Department to learn the value and use of money by providing an allowance and opportunities for earning, spending, and saving.

(11)(b) through (11)(d) No change.

(e) Allowance shall not be withheld as punishment.

(11)(e) is renumbered (11)(f) No change.

(g) For privately placed youth, the child-caring agency shall document the discussion of allowance in the placement agreement.

#### **65C-14.021 Discipline and Behavior Management**

(1) No change.

(2) If separation from others is used as a discipline control measure, the facility shall have an unlocked, lighted, well-ventilated room of at least 50 square feet and within hearing distance of a staff member. The time limit for isolation shall not exceed 60 minutes.

(3)(a) through (3)(b) No change.

(c) Use chemical or mechanical restraints.

(3)(c) through (3)(f) are renumbered (3)(d) through (3)(g) No change.

~~(h)(g)~~ Engage in discriminatory treatment or harassment on the basis of a child's race, national origin, religion, gender, ~~gender expression, sexual orientation, or disability, or any other characteristic.~~

~~(i)(h)~~ Permit harassment or bullying of children by staff or other youth based on their race, national origin, religion, gender, ~~gender expression, sexual orientation, disability, or any other characteristic.~~

~~(i) Attempt to change or discourage a child's sexual orientation, gender identity, or gender expression.~~

Rulemaking Authority 409.175(5)(a) FS. Law Implemented 409.175(5)(a)1., 13. FS. History—New 7-1-87,

Formerly 10M-9.030. Amended

#### **65C-14.022 Records and Confidentiality Requirements**

(1) through (7) No change.

(8) The child-caring, child-placing agency, foster home or adoptive home who has accepted an HIV infected child for care shall be given a statement in writing which includes the following language: “This information has been disclosed to you from confidential records. The confidentiality of this record is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose.”

(9) through (10) No change.

Rulemaking Authority 409.175(5)(a), 381.004(2)(e)11 FS. Law Implemented 409.175(5)(a)1., 9., 13., 381.004(2)(e)11, (f) FS. History—New 7-1-87, Formerly 10M-9.031. Amended

#### **65C-14.023 Personnel and Staffing Requirements**

(1) through (3)(d)2. No change.

(3)(d)3. Juvenile records checks through the Florida Department of Juvenile Justice for personnel ages 12 to 18, to include children of child-caring agency staff who reside in the facility;

(3)(d)4. through (3)(d)7. No change.

(3)(d)8. If the applicant or any other adult household member residing in the facility has resided in any other state during the past five (5) years, requests for abuse and neglect histories and civil court records regarding domestic violence complaints and orders of protection must be made of those states, and the results of such requests included with the personnel file.

(3)(e) No change.

~~(f) Medical information relating to health or mental health conditions, including medication(s), that may interfere with the employee’s ability to meet the expectations set out in the “Partnership Plan for Children in Out of Home Care, CF FSP 5226, incorporated by reference in subsection (3)(e) of this rule;~~

(3)(g) through (3)(i) are renumbered (3)(f) through (3)(h) No change.

(4) through (14) No change.



(15) Residential child-caring agency personnel shall have the following qualifications:

(a) Executive directors hired after July 1, 1987 shall have a bachelor's degree from an accredited a college or university and at least three (3) years of experience in management or supervision.

(b) Program directors, or staff serving a similar function, who are responsible for supervising, evaluating and monitoring the delivery of services within the child caring agency and for supervising supervisors of direct care staff shall have a master's degree in social work or in a related area in s. 402.402(1)(b), F.S. of study from an accredited a college or university and at least two (2) years of experience in social services, or a bachelor's degree from a college or university and four (4) years of experience working with children.

(c) Staff responsible for the supervision, evaluation and monitoring of the direct care staff shall have a bachelor's degree in social work, or in a related area of study from an accredited a college or university, and at least two (2) years of experience working with children or two (2) years of college and four (4) years of experience working with children.

(d) Staff who provide therapy ~~perform direct counseling~~ to children and their families shall meet the qualifications as required in the "Agency for Health Care Administration, Community Behavioral Health Services Coverage and Limitations Handbook," March 2014, incorporated by reference and available at [http://portal.flmmis.com/FLPublic/Portals/0/StaticContent/Public/HANDBOOKS/Community\\_Behavioral\\_Health\\_Services\\_Coverage\\_and\\_Limitations\\_Handbook\\_Adoption.pdf](http://portal.flmmis.com/FLPublic/Portals/0/StaticContent/Public/HANDBOOKS/Community_Behavioral_Health_Services_Coverage_and_Limitations_Handbook_Adoption.pdf) [www.AHCA.myflorida.com](http://www.AHCA.myflorida.com).

(16) through (18) No change.

~~(a)~~<sup>(19)</sup> The child-caring agency shall document that training received by direct child care staff in the first full year of employment includes the following areas:

~~1.~~<sup>(a)</sup> Administrative procedures and overall program goals;

~~(b)~~ Understanding of children's emotional needs and problems which affect and inhibit their growth;

~~(c)~~ Family relationships and the impact of separation;

~~(d)~~ Substance abuse: recognition and prevention;

~~(e)~~ Identification of and reporting responsibilities in regard to child abuse and neglect;

~~(f)~~ Principles and practices of child care;

~~(g)~~ Behavior management techniques, including crisis management and passive physical restraint;

~~2.~~<sup>(h)</sup> Emergency and safety procedures; and

~~3.(i)~~ The screening, supervision and use of volunteers.

~~(j) Sexual orientation, gender identity, and gender expression.~~

~~(k) Trauma-informed care, including recognizing the signs, symptoms, and triggers of trauma; and for maternity homes, the impact of trauma on the parent-child relationship.~~

(b) The child-caring agency shall document that training received by direct child care staff annually includes the following areas:

1. Understanding of children's emotional needs and problems which affect and inhibit their growth;

2. Family relationships and the impact of separation;

3. Substance abuse: recognition and prevention;

4. Identification of and reporting responsibilities in regard to child abuse and neglect;

5. Principles and practices of child care;

6. Behavior management techniques, including crisis management and passive physical restraint; and

7. Trauma-informed care, including recognizing the signs, symptoms, and triggers of trauma; and for maternity homes, the impact of trauma on the parent-child relationship.

(20)(a) through (b) is renumbered (19)(a) through (b) No change.

(c) Provisions for inexperienced direct care staff members to accompany experienced staff until new staff members are able to perform their job functions independently ~~effectively protect the health and safety of children;~~

(d) Procedures for annual evaluation of the work and performance of each staff member ~~and for six (6) month evaluations of each new direct care staff member~~, which include provisions for employee participation in the evaluation process;

(e) through (f) No change.

Rulemaking Authority 409.145(5), 409.175(5)(a), 435.01 FS. Law Implemented 409.145(2)(e), 409.175(5)(a)1., 4., 5., 7., 9., 435.05 FS. History--New 7-1-87, Formerly 10M-9.033. Amended \_\_\_\_\_

### **65C-14.040 Admission, Placement, and Ongoing Services**

(1) through (2)(d) No change.

~~(e) For transgender youth, a determination whether the youth should be placed with their gender assigned at birth or their identified gender. Factors to be considered shall include:~~

- ~~1. The physical safety of the transgender youth;~~
- ~~2. The emotional well being of the transgender youth;~~
- ~~3. The youth's preference;~~
- ~~4. The recommendation of the youth's guardian ad litem;~~
- ~~5. The recommendation of the youth's parent, when parental rights have not been terminated;~~
- ~~6. The recommendation of the youth's case manager; and~~
- ~~7. The recommendation of the youth's therapist, if applicable.~~

~~(3) The child-caring agency facility shall only accept children who meet the admission criteria.~~

~~(4) No child shall be denied placement in any child-caring agency facility based on race, religion, gender, gender expression, sexual orientation, or transgenderism.~~

~~(3)(5) No child under the age of six (6) years, or the age of enrollment in the first grade of school, shall be admitted to a residential child-caring agency except in the following situations:~~

~~(a) Under emergency circumstances,~~

~~1. An emergency placement of a child under six (6) years shall be documented in the child's case record, verifying that no alternate plan for care was available at the time of admission.~~

~~2. Continued diligent effort shall be made, including referral to the Department to place a child under age six (6) in foster care or other appropriate care. Such plans shall be made within 30 days of the child's admission.~~

~~3. Residential care for children under six (6) years who are part of a sibling group may be continued if separation would cause additional trauma to the child.~~

~~(b) ~~or~~ To prevent the separation of siblings,~~

~~1. Siblings shall be placed in the same home whenever possible.~~

~~2. If it is not possible to place the siblings in the same home, siblings may be placed on the same campus.~~

~~Efforts to place the siblings in the same home shall be documented in the child's record.~~

~~(c) To prevent separation of ~~or~~ a parenting young adult and child. ~~An emergency placement of a child under six (6) years shall be documented in the child's case record, verifying that no alternate plan for care was available at the time of admission. Continued diligent effort shall be made, including referral to the Department to place a child under age six (6) in foster care or other appropriate care. Such plans shall be made within 30 days of the child's admission. Residential care for children under six (6) years who are part of a sibling group may be continued, if~~~~

~~separation would cause additional trauma to the child as appropriate.~~

(6)(a) through (6)(c) are renumbered (4)(a) through (4)(c) No change.

(d) Services offered;

~~(e)(d)~~ Behavior management practices; and

~~(f)(e)~~ The inherent diversity of group home populations, including race, ethnicity, gender, and religion, sexual orientation, gender expression, and transgenderism.

~~(5)(7)~~ The child-caring agency shall provide each child, and the child's parent or guardian, the child's attorney and guardian ad litem, if appointed and requested, and the Department with written policies governing the care of children, including visitation and discipline policies.

~~(6)(8)~~ The child-caring agency shall have written policies that encourage and support family visits, mail, telephone calls, and other forms of communication with parents, relatives, friends or others with whom the child may have a significant relationship. A copy of the policies shall be provided to each child ~~all children,~~ the child's parent or guardian, the child's attorney and guardian ad litem, if appointed and requested, ~~child-placing staff, parents or guardians,~~ child-placing staff, and the Department.

~~(7)(9)~~ The child-caring agency shall have a written agreement or plan with the child and parent or guardian, and the Department or the licensed child-placing agency which describes the following:

(7)(a) through (7)(e) No change.

(7)(f) The conditions under which the child will be discharged ~~released~~ from the program.

(7)(g) No change.

(10) through (13) are renumbered (9) through (11) No change.

~~(12)(14)~~ The development of the service or treatment plan shall include:

(a) The child's parents or guardian, the child's attorney and guardian ad litem, and other appointed representatives and a representative of the referring agency, if appropriate; and

(12)(b) No change.

(15) through (17) are renumbered (13) through (15) No change.

~~(16)(18)~~ Each child in residence shall attend school in accordance with Section 1003.21(1)(a), F.S. ~~the laws of the State of Florida.~~ The child-caring agency shall plan jointly with school personnel and the parent or guardian or child-placing agency staff to place children in appropriate grades and classes and to help them make an adjustment

to their school.

(19) through (25) are renumbered (17) through (23) No change.

#### **65C-14.048 Discharge Planning and Post-release Services**

No change.

#### **65C-14.116 Administrative Actions, Appeals and Closures**

(1) through (2) No change.

(3) Administrative Action for Existing Child-Caring Agencies.

(a) If a licensing violation requires the children to move out of the home temporarily while the violation is remedied, then the license must be suspended.

(b)(a) The Department shall consider the following factors when determining whether a child-caring agency's license will be ~~suspended or~~ revoked:

1. Whether the agency has had licensing violations during the term of the license;
2. Whether the agency has a history of institutional abuse reports;
3. Whether the licensing violations compromise the safety or well-being of children; and
4. Whether the agency has the ability to protect the children in care;
5. Whether the agency has failed to comply with a corrective action plan during the term of the license;
6. Whether the agency has the ability and willingness to implement a corrective action plan.

(3)(b) through (3)(c) are renumbered (3)(c) through (3)(d) No change.

(4) through (5) No change.

Rulemaking Authority 409.175(5)(a) FS. Law Implemented 409.175(5)(a)1., (6), (9)(a) FS. History–New

