



Tennessee Department of Children's Services Protocol: Facility & Group Care IV-E Compliance

Background:

The Department of Children's Services (DCS) is subject to the rules and requirements set forth in 42 U.S.C. §672 and 45 CFR §1356.71 of the Title IV-E section of the Social Security Act (SSA). This statute sets forth standards for Federal payments for foster care and adoption assistance (sections 470-479a of the SSA). Foster Care includes all other out-of-home congregate care provided to children in the custody of the State. Failure to comply with these standards can result in the loss of Federal funding for a limited period of time or for the duration of the foster care placement.

The Title IV-E Foster Care Eligibility Review Guide (Guide), available on the Administration for Children and Families website (www.acf.hhs.gov), provides a consistent and uniform approach for Federal, State and private provider staff to utilize as a resource in complying with safety requirements of the Title IV-E program. The Guide contains policy and procedural guidance on adherence to all facets of Title IV-E compliance. It is intended to complement, not supplant, applicable statutory and regulatory provisions. In the event of conflict or inconsistency between the Guide and the statute or regulations, the latter shall govern. These rules include safety requirements for provider staff delivering services in group home or facility settings. Affected staff members will include all those responsible for providing direct-care and supervision to children in State custody.

Note: Direct-care staff shall be defined as any person, regardless of title or position, having direct supervision or unsupervised contact with children. Non-licensed subcontract individuals or volunteers providing services fewer than twenty (20) hours per month are excluded. This definition does not apply to direct-care staff that is licensed personnel and vetted through their professional licensure.

In response to these Federal requirements, and to serve as a more effective steward of public funds, DCS has developed an internal infrastructure that will provide oversight to ensure compliance with IV-E safety documentation requirements of direct-care staff. The following protocol will guide this process.

Initial Implementation:

The initial implementation of this process will require the following actions:

1. CPPP will send out a request to all providers delivering out-of-home care to submit to DCS a list of all agencies' Human Resources or Personnel staff contact information. These staff will act as a point of contact for CPPP in coordinating oversight of this process;
2. CPPP will compile a Safety Documentation Spreadsheet that lists all safety documents required for direct-care staff;
3. The spreadsheet will be disseminated to all provider agencies' Human Resources or Personnel contact with the following instructions:
 - ◆ Agencies are to review each current direct-care staff's records to ensure compliance with each safety check identified;
 - ◆ Each current direct-care staff will be listed and each safety check will be identified on the spreadsheet by the date each check was completed;

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- ◆ **Please note that the completion date of a safety check is critical to determining compliance.**
 - ◆ The CEO/Executive Director (or designee) responsible for signing contracts on behalf of the agency will certify, through signatory, the review of the spreadsheet attesting to the validity of the review. Upper management sign-off on this document will be considered assurance that all safety requirement documents have been verified as compliant with policy and are contained within the Human Resources or Personnel file for each direct-care staff listed on the spreadsheet;
 - ◆ Agencies will have the option to include all the safety documentation with the spreadsheet. However, only the spreadsheet is mandatory at this juncture.
4. **Sub-Contractors** - The Department shall interface directly with all providers' sub-contractors that operate facilities or group homes in the same manner described throughout this document.

Continuing Oversight:

The following process will take effect after initial implementation:

1. Providers will be responsible for completion and submission of the spreadsheet on a monthly basis. The spreadsheet must be submitted to the Resource Home Eligibility Team (RHET) contact within DCS Central Office. All monthly spreadsheets submitted to RHET must include an updated list of all new direct-care staff beginning their employment with the agency. Agencies must also include on the spreadsheet employees that are no longer with agency. The spreadsheet will follow the same process as detailed above:

Note: If an agency experiences no new hiring of direct-care staff within a particular month signed communication by the CEO/Executive Director (or designee) verifying that fact may be submitted in lieu of the Safety Documentation Spreadsheet.

2. Safety documentation for each newly hired direct-care staff is submitted in addition to the monthly spreadsheet. RHET will review the documents in accordance with policy and will make a subsequent determination as to compliance.
3. Program Accountability Review (PAR) and Licensing will continue their random monitoring of direct-care staff's safety documentation during their annual audit process.

Audits:

The DCS' RHET will conduct an initial targeted audit of safety documentation based on:

1. A randomly chosen sample; and,
2. Results based on PAR and Licensing audit findings of safety documentation deficiencies.

Random Sample:

1. Drawing from submitted spreadsheets, RHET staff may randomly request from a provider agency all safety documents related to specific direct-care staff identified on the agency-validated spreadsheet;
2. Provider will be given a specific period of time to provide all safety documentation for the identified direct-care staff on the spreadsheet;
3. RHET will review the documents in accordance with policy and will make a subsequent determination as to compliance;

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4. In the event that any of the sample documents are found to be non-compliant, a full-scale review of the agency's direct-care staff safety documentation will be triggered.

PAR & Licensing Reviews:

1. Any findings of non-compliance identified by PAR or Licensing during its audit of a provider agency will automatically generate a full-scale review of all provider's direct-care staff safety documentation requirements;
2. In addition, all findings of non-compliance identified in the PAR or Licensing audit will be subject to a penalty fee.

Determined Non-compliance:

Facility direct-care staff's safety documentation found to be non-compliant with policy shall be assessed a flat fee in the following manner:

1. Reviews of safety checks for all new hires are conducted on a monthly basis. All non-compliant findings will be determined on a monthly basis and a flat fee applied on an incremental scale for continued findings of non-compliance.
2. A fee will be assessed for each staff's finding of non-compliance during the month in which the review was conducted. The fee will be assessed on any finding of non-compliance regardless of the number of errors identified for an individual staff member. Fees are assessed based on the following scale:
 - ◆ 1st non-compliant finding(s) = \$250.00 per non-compliant staff finding;
 - ◆ 2nd non-compliant finding(s) = \$500.00 per non-compliant staff finding;
 - ◆ 3rd non-compliant finding(s) = \$750.00 per non-compliant staff finding;
 - ◆ 4th non-compliant finding is subject to corrective action and referral to PQI (DCS Yellow Zone team) for further monitoring and review of provider's compliance of safety standards.

Examples:

John Jones was hired on June 01, 2010. His fingerprint results were completed on June 05, 2010 and his local checks were completed on June 10, 2010. The fee for that review month will be assessed at \$250.00.

If there is a second staff member whose checks were non-compliant in the same month as John Jones the fee will be \$250.00 X 2 = \$500.00.

3. If, in subsequent audits, a previously fined provider is found to be non-compliant for a second/third/fourth time, the rate would increase as stated above multiplied by the number of staff found to be in error.
4. The assessment of non-compliance findings and the resulting calculations will be calibrated (refreshed) each July 01.
5. The procedures detailed herein will also apply to Sub-Contractors. The Sub-Contractor will be required to submit to the State the amount of the fee on or prior to a specific date and time. Failure of the Sub-Contractor to remit reimbursement within the time frame specified will cause the Department to assess the fee amount in equal proportion between the various Primary Contractors.