

Frequently Asked Questions: Notification Process for License-Exempt Residential Care Facilities

- **What type of facilities are subject to the notification requirements in RSMo 210.125 – 210.1286?**
 - License-Exempt Residential Care Facilities or “LERCF” means any place, facility, or home operated by any person who receives children who are not related to the operator and whose parent or guardian is not a resident of the same facility and that provides such children with supervision, care, lodging and maintenance for twenty-four hours a day, with or without transfer of custody; and that is not required to be licensed under § 210.516 RSMo. LERCFs include, but are not limited to, boarding schools, juvenile detention facilities, license-exempt foster homes as outlined in RSMO 210.516, and other congregate care facilities.
 - License-exempt foster homes as defined in section 210.516 RSMo are “any foster home arrangement established and operated by any well-known religious order or church and any residential care facility or child placement agency operated by such organization.” See section 210.516.1(5) RSMo.

- **What type of facilities are NOT subject to the notification requirements in RSMo 210.1250 – 210.1286?**
 - Entities currently licensed under 210.486 or otherwise excluded as referenced in 35-71.015 are not subject to the notification requirements of RSMO 210.1250-210.1286. Such entities include:
 - Hospitals, sanitariums and clinics operated to provide medical care and treatment and operating pursuant to a valid license issued by the Missouri Department of Health and Senior Services, the Missouri Department of Mental Health, the United States (such as Veterans’ Administration Hospitals and hospitals administered by the armed forces of the United States);
 - Boarding schools operated by the Missouri Department of Elementary and Secondary Education provided that DESE requires background checks equivalent or more stringent than the requirements of §210.493 RSMO
 - Foster homes (including unlicensed kinship placements) and congregate care facilities or homes licensed or certified by the Missouri Department of Mental Health provided that DMH requires background checks equivalent or more stringent than the requirements of §210.493 RSMo
 - Juvenile corrections programs operated by the Department of Social Services, Division of Youth Services or juvenile detention facilities operated by Juvenile Officers or juvenile courts which are subject to the Prison Rape Elimination Act (PREA) standards and auditing
 - Facilities operated by the Missouri Department of Corrections and county or local jails
 - Any individual (but not a corporation, partnership, organization or association) who receives on a voluntary basis the child of close, personal friends or relatives as an occasional and personal guest in their personal home or the home of the child’s parent, guardian or legal custodian, who is otherwise unaffiliated with a LRCF or LERCF and who receives custody of or provides care of no other child unrelated by consanguinity, adoption or affinity
 - Any individual (but not a corporation, partnership, organization or association) who is otherwise unaffiliated with a LRCF or LERCF who receives legal custody or guardianship of a child or sibling group pursuant to a judgment or order of a court of competent jurisdiction in cases where a state or local government is not a party; and, in cases where the judgment or order is entered by a court

outside the state of Missouri, all of the requirements of the Uniform Child Custody and Jurisdiction Act, the Interstate Compact for the Placement of Children (ICPC) or the Interstate Compact for the Placement of Juveniles (ICJ) have been fully satisfied

- Any camp which is not a Boarding School; which is operated solely during certain months of the year, not to exceed four months; which is conducted in good faith primarily to provide recreation or religious instruction for children and in which the children do not spend more than thirty consecutive overnight periods during any twelve month period, and not for ongoing residential or treatment purposes

- **By what date do facilities need to have the notification process completed?**
 - Agencies subject to the notification requirements of RSMO 210.150-210.210.1286, operating on or after July 14th, 2021 must submit all paperwork required by and 13 CSR 35-71.300 by no later than October 14th, 2021.
 - All agencies beginning operation after July 14th 2021, that are subject to the notification requirements of RSMO 210.1250-210.210.1286, must submit all paperwork required by and 13 CSR 35-71.300 before they begin accepting children at the facility.

- **What is required as part of the notification process?**
 - The notification process requires the director or designee of a residential facility file specific information with the DSS. Required forms can be found on the DSS website:
<https://www.dss.mo.gov/provider-services/children/residential-program/license-exempt>
 - Agencies subject to the notification requirements must also complete background checks as outlined in RSMO 210.493 and 13 CSR 35-71.015 through DSS.

- **Where can I find forms to complete the notification process?**
 - Forms to complete the notification process can be found on the DSS website at:
<https://www.dss.mo.gov/provider-services/children/residential-program/license-exempt>

- **If a license exempt agency has multiple locations do they need to complete a notification form for each location?**
 - If an agency subject to the notification requirements of RSMO 210.1250-210.1286 operates multiple location they need to complete notification paperwork separate for each location.
 - If an agency has questions regarding how to comply with the notification requirements they can contact the Residential Program Unit at CD.NotifyRPU@dss.mo.gov.

- **What does DSS expect to see as a medical record retention policy?**
 - The law does not lay out any specific requirements regarding a facility maintaining medical records.
 - DSS will accept a written attestation, made under oath, subject to penalty of perjury, and executed by the Director of the LERCF, that the LERCF actually maintains medical records for each child served by the LERCF according to the written policy of the LERCF, which shall be attached to the attestation.

- **How will compliance with the notification process be monitored?**
 - When DSS is advised or has reason to believe that any residential care facility is operating without proper notification in accordance with sections 210.1250 to 210.1286, DSS will give the director of the residential care facility written notice by certified mail that such person shall file notification in accordance with sections 210.1250 to 210.1286 within thirty days after receipt of such notice, or the department may request a court injunction as provided under section 210.1271.
 - DSS may also monitor compliance through the regular course of business in conducting child abuse and neglect investigations.

- **Do Licensed Residential Care Facilities need to complete the notification process?**
 - Residential facilities licensed by DSS (LRCF) are not subject to the notification requirements of RSMO 210.1250-210.1286.

- **Who determines if a facility needs to complete the notification requirement?**
 - DSS determines what facilities are subject to notification requirements through interpretations of RSMO 210.1250-210.1286 and as promulgated in state regulation.

- **Can I appeal the decision that my facility is subject to the notification requirement?**
 - Yes, any LERCF aggrieved by a decision of DSS may file a request for Administrative Review within fourteen (14) days of the mailing of the decision.
 - The procedures for applying for and conducting administrative reviews are set out in regulation at 13 CSR 35-71.300.