

TITLE 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 71—Rules for Residential Treatment Agencies for Children and Youth

PROPOSED AMENDMENT

13 CSR 35-71.045 Personnel. The Department of Social Services is amending section (1), adding a new section (2), renumbering current section (2) to section (3) and amending, renumbering current section (3) to section (4) and amending, deleting current section (4), and amending sections (5) and (6).

PURPOSE: This amendment reorganizes and simplifies the requirements that individuals must complete in order to become and remain employees of licensed residential care facilities (LRCFs), the documents that LRCFs must maintain in its personnel records, and the requirements governing the content of staff orientation and training. This amendment conforms Rule 13 CSR 35-71.045 to section 210.493, RSMo, as amended by Senate Bill 40, which took effect August 28, 2023. Section 210.493 RSMo no longer requires officers, managers, and other support staff of licensed residential care facilities (LRCFs) to undergo the background checks mandated in section 210.493. This amendment also conforms 13 CSR 35-71.045 to Rule 13 CSR 35-71.015, which permits LRCFs, with the Department’s permission, to hire personnel prior to completing all background checks.

(1) [General Requirements.] Pre-Employment Requirements.

(A) The *[Licensed Residential Care Facility (LRCF)]* **LRCF shall [have a written statement of personnel practices which are approved by the governing body and provided to all staff at the time of employment.] require all professional staff to provide a copy of their official college transcript or college diploma and shall keep such transcripts or diplomas on file. The LRCF shall require any person employed in a position requiring a general educational development certificate or high school diploma to provide a copy of such certificate or diploma to the LRCF which the LRCF shall keep on file.**

(B) The LRCF shall *[evaluate and investigate application information carefully to determine whether employment or service of an applicant with the LRCF is in the best interests of the children in care.] require prospective employees to submit at least three (3) character references from unrelated persons. At least one (1) reference shall be from a previous employer, supervisor, teacher, or professor. The LRCF shall contact all references and maintain documentation of the reference checks in the LRCF’s employee records. Documentation of the contact shall include the date, person making the contact, and the content of the contact.*

(C) The LRCF shall establish a written job description for each position, which shall be given to staff at the time of employment. Each description shall describe the duties and responsibilities of the position, address supervision, required knowledge, skills, and abilities, minimum experience, educational requirements, and shall include examples of work performed.

(2) Annual Requirements.

[(C)] (A) [All officers, managers, contractors, volunteers with access to children, employees, other support staff and owners of such LRCF who will have access to the facilities of the LRCF shall

submit to a background check and shall be found eligible for employment or presence at the LRCF as provided in section 210.493, RSMo, and 13 CSR 35-71.015 before commencing service or being afforded access to the facilities of the LRCF. These individuals shall notify the LRCF and the division of any change in circumstances which would render them ineligible for employment or presence at the LRCF. After the individual completes the background check, t]The LRCF shall [further require all officers, managers, contractors, volunteers with access to children, employees, other support staff, and owners of the LRCF who will have access to the facilities of the LRCF to successfully complete] **conduct** an annual check of the Family Care Safety Registry (FCSR) **for all employees and contractors and those owners and volunteers who have access to children.** The LRCF shall maintain documentation of the [Family Care Safety Registry] FCSR checks in its personnel records.

[(D)] **(B)** [After the individual completes the background check, t]The LRCF shall [require all officers, managers, contractors, volunteers with access to children, employees, other support staff, and owners of the LRCF who will have access to the facilities of the LRCF, and who reside outside of the state of Missouri, to successfully complete] **conduct** an annual background [screening which shall consist of a check of the] **check for employees, contractors, owners, and volunteers with access to children who reside outside of Missouri by searching the criminal records database and child abuse and neglect registry [and a criminal background check]** of the states [or jurisdiction in which the individual] **where such persons** reside[s. LRCFs shall further implement and apply policies which require all personnel who are otherwise required to submit to a background check pursuant to section 210.493, RSMo, to immediately notify the LRCF if they are listed in a state or local government registry as a perpetrator of child abuse or neglect, or if they were arrested or charged with any crime listed in section 210.493, RSMo]. **If the LRCF is not legally permitted to search such databases and registries, such employees, contractors, owners, and volunteers should conduct a background check on themselves in such databases and registries and provide the results to the LRCF.**

[(E) Any person who makes a materially false statement in connection with an application for licensure or relicensure as a LRCF shall be ineligible for employment or presence at the LRCF.

(F) Prior to the employment of any person for a position requiring credit hours, a degree, or both from an accredited college or university, a resume and an official college transcript, or a copy of the diploma, shall be on file at the LRCF. Any person employed in a position requiring general educational development certificate or high school diploma shall provide documentation of such within thirty (30) days of employment.

(G) An LRCF shall require the names of at least three (3) persons for each employee, volunteer, or staff person, who are unrelated to the individual, who can provide character references. At least two (2) of the three (3) persons shall be professional references from a previous employer, internship, or volunteer position. If the individual is a student then this requirement may be satisfied by providing the references from the individual's professor, guidance counselor, teacher, or academic advisor.

(H) The LRCF shall contact all references and maintain documentation of the reference checks in the LRCF's employee records. Documentation of the contact shall include the date, person making the contact, and the content of the contact.

[(I)] **(C)** The LRCF shall require an annual driver record check for any [staff,] employees, interns, volunteers, or contract personnel who transport residents. No individual with a suspended or revoked driver's license or record of driving while under the influence of alcohol or any other intoxicating substance within the last five (5) years shall transport residents.

[(2)] **(3) Health Verification.**

(A) All staff, employees, interns, volunteers, and contracted personnel shall be free of symptoms of communicable disease or other evidence of ill health which poses a threat to children.

(B) *[Staff, interns, volunteers, and contracted personnel shall be free of any conditions which would adversely affect their ability to care for or pose a threat to children.*

(C) *[If the division has reason to question the capabilities of any individual working directly with children served by the LRCF, the division may require the individual to submit to a medical examination and obtain a report of an appropriate medical professional that the individual is medically fit to perform the services for the LRCF without reasonable risk to the children.*

[(3)] **(4) Personnel Records.** The LRCF shall maintain personnel records for each staff member, employee, intern, volunteer, and contracted employee as indicated below. The LRCF shall maintain the records on site and shall keep the records for at least *[[five (5)]* **three (3)** years following the date of separation from the LRCF.

(A) For staff members and employees, the personnel record shall include--

1. Verification of education and experience, and a copy of professional license, if applicable;

2. Verification of the names of three (3) persons, unrelated to the staff member, who can provide character or professional references;

3. *[A copy of the job description signed and dated by the employee;*

4.] Results of annual checks of the family care safety registry;

[5.] **4.** Documentation that the individual has completed the background checks and that the division has found the individual eligible for employment or presence at the LRCF pursuant to section 210.493, RSMo, and 13 CSR 35-71.015;

[6.] **5.** Documentation *[of annual background checks for individual staff members]* **that employees** who reside outside of Missouri *[that are subject to the background check requirements provided for in section 210.493, RSMo, which shall include a check of the]* **have completed an annual background check of a criminal records database and** child abuse and neglect registry *[and a criminal background check]* of the state *[or jurisdiction]* in which *[the individual]* **such employees** reside*[s. LRCFs shall further implement and apply policies which require all personnel who are otherwise required to submit to a background check pursuant to section 210.493, RSMo, to immediately notify the LRCF if they are listed in a state or local government registry as a perpetrator of child abuse or neglect, or if they were arrested or charged with any crime listed in section 210.493, RSMo];*

[7.] **6.** The date *[of employment, date of separation, reason(s) for separation]* **that employment commenced;**

[8.] **7.** Copies of annual performance evaluations;

[9.] **8.** Results of an annual driver record check for any employee, intern, volunteer, and any contracted personnel who transport residents;

[10.] **9.** A *[signed and dated]* copy of the *[confidentiality statement]* **following documents signed and dated by the employee[;]:**

A. Job description;

B. Confidentiality policy;

C. Discipline policy;

D. Child abuse/neglect reporting policy;

E. Critical incident reporting policy;

F. Acknowledgement of receipt of program policy;

G. Acknowledgment of personnel policy; and

H. Acknowledgment of completed agency orientation.

[11. A signed and dated copy of the discipline policy;

12. A signed and dated copy of the mandated child abuse/neglect reporting and critical incident reporting policies;

13. A signed and dated copy of an acknowledgement of receipt of program and personnel policies and manuals;

14. A signed and dated copy of the acknowledgment of completed agency orientation;

*15.] 10. Documentation that the staff member has successfully completed all **required** training [required for the successful performance of the individual's duties];*

*[16.] 11. Documentation of current first aid/cardiopulmonary resuscitation training and certification **for applicable staff**;*

*[17.] 12. Documentation of current [medical] **medication** aide certification, when applicable[.];*
and

13. Documentation of current physical restraint training certification, when applicable.

(B) For interns, volunteers, and contracted employees who have direct contact with children, the personnel record shall include--

1. Copy of professional credentials, if applicable;

2. Results of annual checks of the family care safety registry and documentation that the individual has completed the background check process and been found eligible for service as provided in section 210.493, RSMo, and 13 CSR 35-71.015;

3. *[Documentation of annual background checks for interns, volunteers, and contracted employees who have direct contact with children who reside outside of Missouri that are subject to the background check requirements provided for in section 210.493, RSMo, which shall include a check of the child abuse and neglect registry and a criminal background check of the state or jurisdiction in which the individual resides. LRCFs shall further implement and apply policies which require all personnel who are otherwise required to submit to a background check pursuant to section 210.493, RSMo, to immediately notify the LRCF if they are listed in a state or local government registry as a perpetrator of child abuse or neglect, or if they were arrested or charged with any crime listed in section 210.493, RSMo]* **Results of annual checks of the out-of-state criminal records database and child abuse and neglect registry for those interns, volunteers, and contracted employees who reside outside of Missouri;**

4. **A copy of the following documents signed and dated by the intern, volunteers, and contracted employee:**

A. *[A signed and dated copy of t]*The contract or any agreement outlining purpose of presence on site;

[5.] B. *[A signed and dated copy of t]*The confidentiality policy;

[6.] C. *[A signed and dated copy of t]*The discipline policy;

[7.] D. *[A signed and dated copy of t]*The *[mandated]* child abuse/neglect **reporting policy**; *[and]*

E. *[c]*The critical incident reporting polic*[ies]*y;

F. Acknowledgement of receipt of program policy, if applicable;

[8.] G. *[A signed and dated copy of the a]*Acknowledgement of receipt of manuals *[and]* **or** policies related to the agreement/contract, **if applicable**; and

[9.] H. *[Documentation of staff]* **Acknowledgement of completed facility orientation [participation], if applicable.**

[(4) Job Descriptions. An agency shall establish a written job description for each position, which shall be made available to staff at the time of employment. Each description shall describe the duties and responsibilities of the position; address supervision, required knowledge, skills and abilities, minimum experience, educational requirements; and shall include examples of work performed. Each employee shall be given a copy of the job description for his/her position. A copy of the job description shall be signed and dated by the employee and placed in his/her file.]

(5) Staff Orientation. [Immediately before or within one (1) week following appointment, an employee, intern, volunteer, and any contracted personnel shall be oriented to the agency's programs, practices, and the duties and expectations of his/her position. The orientation program shall include, but not be limited to:]

*(A) [Agency philosophy and history;] **The LRCF shall have a written statement of personnel practices that is provided to all staff at the time of employment.***

(B) Within thirty (30) days following appointment, employees, interns, volunteers, and contracted personnel shall be oriented to the facility's programs, practices, and the duties of their positions. The orientation program shall include instruction in the following areas with respect to the facility:

1. Program model

*[(B) Agency p] **2. Policies;***

*[(C) Agency s] **3. Staff roles;***

[(D) The family's role in the child's care and the worker's role and responsibilities in relation to the family;

[(E) Complete description of the agency's program model;

*[(F)] **4. Health and safety procedures**[, including the use of universal health care precautions];*

*[(G)] **5. Crisis intervention procedures;***

*[(H)] **6. Record**[]keeping requirements;*

[(I) Cultural diversity;

*[(J)] **7. Separation and attachment issues;***

*[(K)] **8. Confidentiality;***

[(L) Substance abuse;

*[(M)] **9. Recognition of suicidal tendencies and appropriate intervention;***

*[(N) The p]**10. Procedure for identifying and reporting child abuse or neglect, or both, in accordance with sections 210.110-210.165, RSMo;***

11. Procedure for identifying and reporting the abuse of youth eighteen years or older who are "eligible adults" under sections 192.2400–192.2505, RSMo, if applicable;

[(O) Agency recreation program philosophy, policy, procedures, rules, and expectations;

*[(P)] **12. Basic information on the child welfare and juvenile justice systems, including the** [L]legal rights of children and their families[, including basic information on the constitutional rights of children and their families while children are in care and basic information on the Missouri juvenile justice system]; and*

*[(Q)] **13. Procedures to follow in an emergency.***

(6) Staff Training.

*(A) A[n agency] **facility shall** [establish and submit to the licensing unit an annual] **prepare a** written plan of training each year for all employees and contracted personnel.*

1. Employees and contracted personnel **that work directly with children** shall have *[forty (40)]* **twenty-five (25)** hours *[during the first year of employment and forty (40) hours]* **of training** annually. *[each subsequent year; and]*

2. Direct care staff and immediate supervisors must maintain certification in a certified medication training program*[, crisis management, a current recognized and approved physical restraint program (where applicable), first aid, and cardiopulmonary resuscitation]* **unless all medication is managed through on-site medical personnel.**

3. **Direct care staff and immediate supervisors must maintain certification in a current recognized and approved physical restraint program (where applicable), first aid, and cardiopulmonary resuscitation.**

4. **Employees and contracted personnel that do not work directly with children shall receive job-appropriate training.**

(B) All training must be documented on a training database/training log with the dates, location, subject, number of hours earned and person(s) who conducted the training.

(C) The training may include*[, but not be limited to,]* short-term courses, seminars, institutes, workshops, and in-service training provided on site by qualified professionals. Activities related to supervision of the staff member's routine tasks shall not be considered training *[activities]* for the purpose of this rule.

(D) The training plan shall include*[, but not be limited to]* **training in the following areas for employees and contracted personnel who work directly with children:**

1. Developmental needs of children;

2. *[Child management techniques]* **For those facilities licensed to provide residential treatment and intensive residential treatment, training related specifically to treatment issues with emotionally disturbed, mentally ill, behaviorally disordered, medically fragile, physically disabled, and/or developmentally delayed children, as defined by the facility's program;**

3. **Prenatal and parenting skills, including safe sleep, for facilities licensed for infant/toddler/preschool and maternity;**

4. Basic group dynamics;

[4.] **5. Trauma-informed care;**

6. Cultural sensitivity;

7. Critical incident reporting;

8. Appropriate discipline, crisis intervention, de-escalation techniques, and behavior management techniques;

[5.] **9. The role of direct care and professional staff *[roles in]* at the operating site, including maintaining appropriate boundaries;**

[6. Interpersonal communication;

7.] **10. Proper, safe methods*[,]* and techniques of physical restraint, if applicable;**

11. Fire prevention and reporting fires;

12. Emergency evacuations;

[8.] **13. First aid and cardiopulmonary resuscitation training, including infant CPR for facilities with an infant/toddler pre-school license;**

[9.] **14. Medication training and/or certification, including training to identify changes in a child's appearance or behavior that may be related to the use or disuse of any medication, including psychotropic medications;**

15. Substance abuse;

[10.] **16. Suicide prevention;**

17. Human Trafficking;

[11.] **18.** Legal rights of children and their families, including basic information on the constitutional rights of children and their families while children are in care and basic information on the Missouri juvenile justice system; and

[12.] **19.** Water safety for those agencies allowing water activities.

AUTHORITY: sections 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2023. This rule originally filed as 13 CSR 40-71.045. Emergency rule filed Nov. 1, 1993, effective Nov. 12, 1993, expired March 11, 1994. Emergency rule filed March 2, 1994, effective March 12, 1994, expired July 9, 1994. Original rule filed Nov. 1, 1993, effective June 6, 1994. Emergency amendment filed July 25, 2008, effective Aug. 4, 2008, expired Jan. 30, 2009. Moved to 13 CSR 35-71.045 and amended: Filed July 25, 2008, effective Jan. 30, 2009. Amended: Filed Dec. 16, 2013, effective June 30, 2014. Emergency amendment filed Sept. 17, 2021, effective Oct. 1, 2021, expired March 29, 2022. Amended: Filed Sept. 17, 2021, effective March 30, 2022. Emergency amendment filed Aug. 14, 2023, effective Aug. 28, 2023, expired Feb. 23, 2024. Amended: Filed October 1, 2024.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Legal Services Division-Rulemaking, P.O. Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.