

N.J.A.C. 10:195

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 50 No. 11, June 4, 2018

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 195. STANDARDS FOR OUT-OF-STATE PROGRAMS SERVING CHILDREN

Title 10, Chapter 195 -- Chapter Notes

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:1-15.3.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2017 d.237, effective December 18, 2017.

See: 49 N.J.R. 178(a), 49 N.J.R. 4007(a).

CHAPTER HISTORICAL NOTE:

Chapter 195, Standards for Out-of-State Programs Serving Children, was adopted as new rules by R.2009 d.204, effective July 6, 2009. See: 40 N.J.R. 3555(a), 41 N.J.R. 2651(b).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 195, Standards for Out-of-State Programs Serving Children, expired on July 6, 2016. See: 43 N.J.R. 1203(a).

Chapter 195, Standards for Out-of-State Programs Serving Children, was adopted as new rules by R.2017 d.237, effective December 18, 2017. See: Source and Effective Date. See, also, section annotations.

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N.J.A.C. 10:195-1.1

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§ 10:195-1.1 Legal authority

(a)This chapter is promulgated pursuant to P.L. 2007, c. 286, (N.J.S.A. 30:1-15.3) known as Billy's Law, which authorizes the Department of Human Services to prescribe standards for the placement of children from this State in out-of-State residential schools and programs.

(b)Under Billy's Law, either the Department of Human Services or the Department of Children and Families, as applicable, is required either to inspect out-of-State residential schools and program serving children from New Jersey, or to contract with another entity to perform the inspection.

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§ 10:195-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

"Child" means a service recipient of the Department of Human Services under the age of 23 years.

"Department" means the New Jersey Department of Human Services.

"Emergency" means that the child is homeless or in imminent peril.

"Out-of-State" means a location in the United States other than the State of New Jersey.

"Placement" means housing a child in a residential program.

"Placing agency" means a private or public agency authorized to place or facilitate the placement of children in residential programs.

"Residential school or program" means a facility or residence used to house and provide services on a 24-hour basis to one or more children determined to be in need of such housing and services.

"Unusual incident" means an event involving a person served or employee involving indications or allegations of criminal actions, injury, negligence, exploitation, abuse, clinical mismanagement or medical malpractice, a major unforeseen event, such as a serious fire, explosion, a power failure that presents a significant danger to the safety or well-being of persons served and/or employees or a newsworthy incident.

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N.J.A.C. 10:195-2.1

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§ 10:195-2.1 Inspections

(a) Before entering into a contract with an out-of-State residential program for the placement of children, the Department shall ensure that an evaluation and inspection of the program are conducted. The inspection shall include a site visit.

(b) The Department shall either assign its own staff to conduct an inspection, or, at its discretion, ensure that an inspection is conducted by one or more of the following:

1. If another New Jersey Department is authorized by statute or rules to inspect the program, the Department may rely upon that Department's inspection, provided that:
 - i. An inspection was conducted that included a site visit indicating the program complies with the applicable New Jersey rules for that type of program; and
 - ii. The inspection was conducted in compliance with the applicable New Jersey rules governing the scope and frequency of inspections for that type of program;
2. The Department may contract with the licensing or regulatory authority of the state where the program is located to conduct the inspection provided that:
 - i. The licensing or regulatory authority certifies in writing that its rules meet or exceed New Jersey rules for programs of comparable type; and
 - ii. Inspections and site visits are conducted as frequently as those required by New Jersey rules for programs of comparable type; or
3. The Department may contract with a nationally recognized accrediting or advocacy organization to conduct the inspection provided that:
 - i. The organization certifies, in writing, that the program meets or exceeds the standards described in New Jersey rules for programs of comparable type;
 - ii. Site visits are conducted as frequently as those required by New Jersey rules for programs of comparable type; and

iii. The organization is not a provider of residential services regulated by or contracted with the State of New Jersey or the state in which the program is located.

(c) If an inspection is conducted by an agency specified in (b) above, the Department shall review the inspection report and related information provided by the agency that conducted the inspection.

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§ 10:195-2.2 Placements

(a) Each out-of-State residential program serving one or more New Jersey children shall meet or exceed the applicable New Jersey rules for the type of program it most closely resembles, as specified at N.J.A.C. 10:44A, 10:44B, 10:44C, 10:47, 10:127, 10:128, or such other rules governing New Jersey residential programs for children as may be adopted.

1. When a program serves children placed or facilitated by the Department of Children and Families, that Department shall determine which of its rules apply to the program, as specified at N.J.A.C. 10:127 or 10:128. The applicable Department of Children and Families rules shall take precedence over Department of Human Services rules in such cases.

2. When a program serves children placed or facilitated by the Department of Human Services, that Department shall determine which of its rules apply to the program, as specified at N.J.A.C. 10:44A, 10:44B, 10:44C, or 10:47. The applicable Department of Human Services rules shall take precedence over Department of Children and Families rules in such cases.

3. When a program serves children placed or facilitated by both the Department of Human Services and the Department of Children and Families, the Departments shall agree on which rules take precedence.

(b) When a child is in need of placement, the placing agency shall attempt to place the child in an appropriate New Jersey residential program before placing the child in an out-of-State residential program on a permanent basis. The placing agency shall document efforts to place the child in New Jersey before seeking out-of-State placement.

(c) When a child is in need of emergency placement in an out-of-State program that has not been evaluated by the Department, the placing agency may place the child, provided that:

1. Before the child is placed, the placing agency shall first determine that the out-of-State program is free of serious or imminent hazards to the health, safety, rights or welfare of the child to be placed therein; and

2.The placing agency or the out-of-State program shall request an inspection, as specified in N.J.A.C. 10:195-2.1, to be conducted within 30 days of placement.

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§ 10:195-3.1 Contracts

(a)The Department shall contract with each out-of-State program in which children are placed.

(b)The contract shall indicate that the Department is authorized to conduct unannounced inspections of the program.

(c)The contract shall indicate that the Department is authorized to review and investigate unusual incidents occurring at the program or elsewhere that affect New Jersey service recipients. The contract shall indicate that the Department may take one or more of the following actions:

1. Assign Department staff to investigate the incident;
2. Refer the incident to another New Jersey Department for investigation;
3. Require the program to provide additional information concerning the incident, including the program's internal investigation;
4. Contract with a nationally recognized accrediting or advocacy organization to investigate the incident;
5. Request an investigation by the applicable agency in the state where the program is located; or
6. Request an investigation by the applicable law enforcement agency, when criminal actions are alleged or suspected.

(d)The contract shall require the program to report unusual incidents and allegations of suspected abuse, neglect, or exploitation involving a New Jersey child.

1. The program shall report the incident in a manner prescribed by the Department.
2. The program shall comply with applicable statutes and rules governing the reporting of allegations or suspicions of abuse, neglect and exploitation adopted by the State of New Jersey and by the state in which the program is located.

(e)The contract shall require the program to cooperate with inspections and investigations conducted by a New Jersey Department or an agency contracted with a New Jersey Department.

(f)The contract shall require the program to certify that its plan of care for New Jersey children complies with the applicable New Jersey rules for plans of care in programs of comparable type.

(g)The placing agency shall negotiate the cost of services to be provided by the program, in compliance with the applicable rules and policies of the funding source.

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§ 10:195-3.2 Reports of inspections and unusual incidents

(a) Upon completion of the evaluation and inspection of each out-of-State residential program, the Department shall provide a report of the evaluation and inspection to the placing agency and any other New Jersey Department placing or facilitating the placement of children at the program, along with any related information that may be obtained from the inspecting agency. The placing agency shall determine whether the program is appropriate to the needs of the children served.

1. The placing agency shall base its determination on the rules for private out-of-State placement at N.J.A.C. 10:46B-4.3.

2. The placing agency's determination may be appealed as specified at N.J.A.C. 10:48.

(b) In the event of an allegation or reasonable suspicion of abuse, neglect or exploitation, imminent jeopardy to persons served or criminal actions, the Department shall notify the applicable protective services agency, law enforcement agency or other applicable authority.

(c) The Department shall inform the Department of Children and Families of all reports it receives from out-of-State programs concerning unusual incidents and incidents involving allegations of child abuse or neglect.

(d) The Department shall provide copies of reports of inspections, investigations, and evaluations to other New Jersey State agencies placing service recipients in out-of-State residential programs, unless disclosure of such reports is prohibited by applicable statutes or rules.

(e) The Department may, upon request by an authorized agency in another state, provide copies of reports of inspections, investigations, and evaluations of residential programs housing children in New Jersey or in another state, unless disclosure of such reports is prohibited by applicable statutes or rules.

(f) The Department shall, upon request, provide copies of reports of inspections, investigations, and evaluations to agencies approving payment for or facilitating the

placement of service recipients in out-of-State residential programs, unless disclosure of such reports is prohibited by applicable statutes or rules.

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§ 10:195-3.3 Reports to the Legislature and the public

(a)By January 6, 2011, the Department shall report to the Governor and the Legislature on its implementation of these rules concerning out-of-State placements of children, as well as the Department's efforts to expand New Jersey's capacity to provide in-State residential programs. Following the initial report and while the Department has children placed out-of-State, the Department shall issue such a report annually.

(b)The Department shall maintain on its official website, www.state.nj.us/humanservices, a list of all out-of-State programs in which New Jersey children receiving services from the Department are placed.

History

HISTORY:

Amended by R.2017 d.237, effective December 18, 2017.

See: 49 N.J.R. 178(a), 49 N.J.R. 4007(a).

Deleted former (a); and recodified former (b) and (c) as (a) and (b).

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