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Approved:	Aryka Radke, Deputy Commissioner	Effective: 4/30/2021
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Purpose

- To outline the procedures for the initial licensing of Residential Treatment Programs (RTPs) and renewal of licenses;
- To describe the requirements for conducting child safety interventions in RTPs;
- To describe the requirements for conducting regulatory interventions in RTPs; and
- To describe special considerations for conducting interventions in RTPs compliant with the Prison Rape Elimination Act (PREA) Juvenile Facility Standards.

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Related Policies & Regulations

- Family Services [Policy 50](#): Child Abuse and Neglect Definitions
Family Services [Policy 51](#): Screening Reports of Child Abuse and Neglect
Family Services [Policy 52](#): Child Safety Interventions – Investigations and Assessments
Family Services [Policy 56](#): Substantiating Child Abuse and Neglect
Family Services [Policy 220](#): Role and Functions of RLSI
Family Services [Policy 305](#): Prison Rape Elimination Act (PREA) Data Collection, Review, and Reporting

[Licensing Regulations for Residential Treatment Programs in Vermont](#)
[Prison Rape Elimination Act \(PREA\) Juvenile Facility Standards](#)

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Introduction

Pursuant to 33 V.S.A. § 306 (b), 33 V.S.A. § 3501, and 33 V.S.A. § 4905, the Vermont Department for Children and Families is the agency of government authorized and responsible for the regulation of RTPs for children and youth, and the promulgation of standards governing these programs.

Definitions

Family Services Worker: For the purposes of this policy, the term ‘Family Services Worker’ or ‘Worker’ refers to Residential Licensing and Special Investigations Unit workers.

Residential Treatment Program (RTP): A place, however named, which provides a planned program aimed at behavioral change, administered by qualified staff, for children in a twenty-four-hour residential setting. This definition does not include family foster homes, summer camping programs, facilities approved by other departments of the Agency of Human Services, or other facilities exempted under the provisions of 33 V.S.A. § 151.

Policy

Application for Licensure


Upon request, the Residential Licensing and Special Investigations Unit (RLSI) will consult with potential applicants on issues related to licensing including:

- the necessity for licensure;
- activities that require a license;
- interpretation of the regulations; and
- the application and licensing process.

Once RLSI receives an application, a family services worker will be designated to oversee this process. RLSI will verify with the Secretary of State that the agency is authorized to do business in Vermont. The agency must provide copies of any licenses in effect in other states.

The licensing evaluation will include:

- educating the applicant on the licensing process;
- visiting the physical facility;
- assessing the RTP’s compliance with each regulation;
- discussing areas of non-compliance and steps the RTP might consider to achieve

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compliance; and

- educating the applicant about procedures on obtaining criminal records and registry background checks for facility staff.

RLSI may provide additional consultation as necessary.

When the family services worker determines that the agency is in substantial compliance with the regulations, the worker will prepare a report. The report will:

- assess compliance with each regulation;
- describe areas of non-compliance and sets clear time frames for correction;
- state a recommendation for licensure capacity, gender and age range; and
- state a recommendation of approval or denial for licensure.

RLSI will send a draft report to the applicant for review with comments due within fifteen days.

If the worker, in consultation with an RLSI supervisor, determines that the agency is not making progress toward compliance, or cannot comply, the licensing report will recommend a denial of licensure. The RLSI director will notify the agency in writing, listing specific areas of non-compliance and information on the process for appeal.

Term of License and Licensing Renewal

The initial term of licensure for a new program will be one year, or less, at the discretion of RLSI to allow for a follow-up visit to determine full compliance with the regulations for the next term of licensure.

The standard term of licensure is two years. RLSI reserves the discretion to amend the term of a license in special circumstances.

Two months before the expiration of the agency’s license, RLSI will:

- send a renewal application, requesting its return within one month;
- contact the RTP and schedule the re-licensing visit; and
- solicit feedback about the RTP from stakeholders which may include, but is not limited to: youth, parents, Family Services Division (FSD) staff, Agency of Education (AOE) staff, and Department of Mental Health (DMH) staff, and others as appropriate.

Before the re-licensing visit, RLSI will:

- review the application;

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- review information regarding the RTP’s activities since the last licensing visit, and;
- review child safety interventions (CSIs) and regulatory interventions conducted by the division at the RTP.

During the re-licensing visit, RLSI will:


- inspect of areas of the program used by children/youth in care;
- interview children/youth in care;
- interview administrators;
- interview clinicians;
- interview supervisory and direct care staff;
- review changes in personnel;
- review personnel files;
- review the process for obtaining background checks;
- audit personnel files for the completion of background checks;
 - Programs with less than 20 staff members will have 50% of staff files reviewed. Programs with more than 20 staff members will have 25% of staff files reviewed.
- review changes in policy and practice;
- review a sample records for children/youth in care; and
- assess progress in previously identified areas of weakness or noncompliance, which includes any regulatory or child safety interventions conducted during the time under review.

RLSI will hold a closing conference with the program administrator to discuss findings and recommendations. This conference may be waived by mutual consent if no significant issues have emerged.

After each re-licensing visit, the worker will prepare a report summarizing their findings and recommendations. The report will:

- assess compliance with each regulation;
- describe areas of non-compliance and sets clear time frames for correction;
- state a recommendation for licensure number, gender, and age range; and
- state a recommendation of approval or denial for licensure.

RLSI will prepare a report and send a draft to the licensee for review and comment to be returned within fifteen days.

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When RLSI determines the program is in substantial compliance with the regulations, renewal of the RTP’s license will be recommended. If RLSI determines the program is not in substantial compliance or is not making progress toward compliance, the licensing report and letter will recommend a denial of licensure and provide information on the process for appeal of the denial.

Ongoing Review of Licenses

Consumer complaints, reports of child abuse and neglect, and reports of regulatory infractions may at times require a review of the current status of a license.

Reporting Child Abuse and Neglect

Reports of suspected abuse and neglect of a child or youth placed in an RTP are made to Vermont’s Centralized Intake and Emergency Services through the Child Protection Hotline at **1-800-649-5285** (24 hours a day, 7 days a week). All mandated reporters in Vermont (including RTP staff, Family Services Division employees, and RLSI staff) are required to make reports within 24 hours of the time information regarding the suspected abuse or neglect was first received or observed (33 V.S.A. § 4913(c)).

If an employee of an RTP informs RLSI of suspected child abuse/neglect, RLSI will confirm a report was made to Centralized Intake and Emergency Services. Because reportable information was shared with them, the RLSI worker may elect to add themselves to the report even if they do not have additional information to add. If the alleged abuse occurred outside of Vermont, RLSI staff will confirm a report was made to the appropriate investigative agency in the state where the abuse occurred and/or make a joint report with the RTP staff person.

PREA Related Reporting

Additionally, federal PREA regulation 28 CFR § 115.363 requires program/facility heads to report to other program/facility heads if they learn of allegations of sexual abuse in other programs (both in-state and out-of-state).

Screening Reports of Child Abuse and Neglect in RTPs

All reports made to CIES are screened according to [Policy 51](#). In Vermont, reporters are asked about the alleged perpetrator’s unsupervised access to the child/youth for each received report of abuse/neglect. If the report meets acceptance criteria, an alleged perpetrator’s access to the child factors into the urgency of commencement and/or establishing safety for the child/youth.

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If warranted according to Vermont law and division policy, the CIES screener will accept the report as meeting criteria for a child safety intervention and an RLSI supervisor will assign the case to a worker.

If the report is not accepted on the first review by CIES, the RLSI supervisor will provide the second review of the report. Upon second review of the report, the RLSI supervisor will do one of the following:

- Accept the report for a child safety intervention and assign the case to a worker for commencement and intervention per [Policy 52](#). A regulatory intervention may occur concurrently.
- Accept the report for a regulatory intervention and assign the case to a worker.
- Direct the RTP to conduct an internal investigation which is reviewed by RLSI.
- No response warranted beyond informing parties about the information contained in the intake.


Child Safety Interventions in RTPs

RLSI follows [Policy 52](#) when conducting child safety interventions in residential treatment programs with one exception. The *SDM Safety Assessment* and *SDM Risk Assessment* instruments are not designed to be utilized in an agency/facility setting; therefore, RLSI staff are not required to complete these tools during child safety interventions.

If there is imminent danger to the child, the alleged perpetrator has continued access to the child, and/or other children may be at risk, safety will be established within 24 hours. The family services worker will assess for safety/danger and gather minimal facts without interviewing the young person. The gathering of minimal facts can entail:

- Obtaining the necessary information regarding the reported abuse (who, what, where, and when) from sources other than the victim;
- Gathering information from the report, collaterals contacts, caretakers, and those who first received the disclosure of information;
- Assessing for safety, well-being, and capacity of the RTP to protect the children and youth within the program; and/or
- May include observation of the child and rapport building if determined necessary by the RLSI worker or supervisor.

The specific details of how safety is established may differ on a case-by-case basis (i.e., requiring RTPs to disallow contact between the victim and alleged perpetrator, RTPs electing to place staff on administrative leave, or another agreed upon safety plan while the RLSI worker coordinates with law enforcement and others regarding a forensic interview).

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The child safety intervention will not be terminated, closed, or reset if the child or youth recants the allegation.

RLSI will collaborate with state regulatory partners when the child safety intervention occurs within a facility not regulated by RLSI.


Special Considerations for Child Safety Interventions in PREA-Compliant RTPs

In addition to the expectations outlined in [Policy 52](#), RLSI assumes additional responsibilities when conducting interventions in RTPs compliant with the [Prison Rape Elimination Act \(PREA\) Juvenile Facility Standards](#). When a report is accepted, RLSI will notify the child’s legal guardian(s). RLSI will notify the child’s attorney or instruct the assigned district worker to notify the child’s attorney of the incident or allegation (28 CFR 115.361(e)).

RLSI workers conducting child safety interventions in PREA-compliant RTPs must receive specialized training in conducting investigations in confinement settings, techniques for interviewing child/youth sexual abuse victims, and understanding law enforcement’s proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. The National Institute of Corrections [Investigating Sexual Abuse in a Confinement Setting Course](#) was designed to meet the requirements of 28 CFR 115.334(b) and generates a certificate at the completion of the training. The RLSI director shall maintain documentation that RLSI workers have completed the required specialized training.

RLSI workers collaborate with law enforcement in the gathering and preserving direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data. RLSI workers collaborate with law enforcement when interviewing child/youth victims, alleged actors, and witnesses. Neither division staff nor law enforcement requires a child or youth who alleges sexual abuse to submit to a polygraph examination or other truth-telling devices as a condition for proceeding with the child safety intervention and/or criminal investigation. Child safety interventions involve the review of prior complaints and reports of sexual abuse involving the alleged actor.

Written reports of child safety interventions include descriptions of physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. The division retains all written reports and documentation related to child safety interventions in FSDNet forever (which exceeds the requirements outlined in 28 CFR 115.371(j)).

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PREA-compliant RTPs are required to conduct sexual abuse incident reviews at the conclusion of every sexual abuse investigation. RLSI workers shall participate in these sexual abuse incident reviews and make recommendations for improvement if needed.

Substantiating Child Abuse and Neglect in RTPs

RLSI follows [Policy 56](#) when substantiating child abuse and neglect in RTPs. In accordance with [33 V.S.A. 4912\(2\)](#), a “substantiated report” means the Commissioner or the Commissioner's designee (RLSI for the purposes of this policy) has determined after investigation that a report is based upon accurate and reliable information that would lead a reasonable person to believe the child has been abused or neglected.

The substantiation standard described above is consistent with the “reasonable belief standard” or “reasonable suspicion standard”, which is lower than the “preponderance of evidence standard” and meets the requirements of 28 CFR 115.372.

Parties initially notified of the intervention will be notified of the resolution (substantiated or unsubstantiated). RLSI will inform RTP directors or designees in writing of the outcome of the intervention. The letter/notice is a confidential record provided for a discrete purpose. The letter/notice will indicate that it cannot be redisclosed to anyone who is not already permitted to have the confidential information (i.e., a person who has been substantiated or a licensing body to whom a staff/employee is subject).

Notice of Substantiations Pertaining to RTP Staff

RLSI will inform RTPs in writing of all investigations that result in a substantiation of abuse perpetrated by their staff. This is aligned with RTP [Regulation 402](#), which restricts RTPs from hiring or continuing to employ any person substantiated for child abuse or neglect.

In alignment with PREA regulation 28 CFR § 115.376, RTP directors or designees are responsible for [employer mandatory reporting](#) to the [Office of Professional Regulation](#) as required by [3 V.S.A. § 128](#). RTP directors are permitted to share RLSI’s letter/notice about the substantiation with the [Office of Professional Regulation](#) or the [Vermont Board of Medical Practice](#).

Notice of Substantiations Pertaining to Residents of RTPs

RLSI will inform RTPs in writing of all investigations that result in a substantiation of sexual abuse perpetrated by a resident of the program. In the notice/letter, both the victim and perpetrator will be referred to by their initials.

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Regulatory Interventions in RTPs

When RLSI receives a report that does not meet criteria for a child safety intervention, but raises concerns about a regulatory violation that compromises the care of children in an RTP, RLSI may initiate a regulatory intervention. The intervention will be commenced within 72 hours. Commencement will include contact with the program director/administrator or designee.

A regulatory intervention will consist of:

- Reviewing information regarding the facility already known to RLSI and
- Discussing the content of the report with the program administrator.

The RLSI worker assigned to the intervention will notify appropriate district staff (child/youth’s worker, supervisor, resource coordinator, or district director) if there are concerns regarding a child in DCF custody or a need for change in placement.

When appropriate, RLSI may also choose to use the following tools to assess regulatory compliance and child safety:

- Visit the RTP if applicable to alleged violation.
- Interview or observe any child/youth cared for by the facility or involved in the report.
- Gather collateral information from district office staff or from other involved regulatory bodies.


Special Considerations for Regulatory Interventions in PREA-Compliant RTPs

In addition to the expectations outlined above, RLSI will monitor PREA-compliant RTPs’ responses to reports of sexual abuse and sexual harassment that are not accepted by the division for child safety interventions. RTPs are tasked with internal responses and safety planning following a report or allegation, and RLSI will provide regulatory oversight.

Resolution of Regulatory Interventions in RTPs

Parties initially notified of the intervention will be notified of the resolution. The RTP will be notified of the resolution and any attached expectations. The regulatory intervention will end with a determination of compliance or non-compliance. Options include:

- No violation (with or without recommendations)
- Violation (with expectations for amelioration)
- Revocation

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If the RLSI worker, in consultation with the RLSI supervisor, determines that the regulated facility is not in compliance with regulations, the licensing or investigation report may recommend revocation of the license. RLSI will seek consultation from the assistant attorney general (AAG) assigned to the division. Final decisions regarding revocations and denials are made by the RLSI director. The RLSI director will inform the RTP in writing of this decision. The letter will note specific areas of non-compliance and inform the licensee of the process to appeal the revocation. Appropriate documentation of the response and resolution will be recorded in the RTP licensing file.