

Subpart E. RESIDENTIAL AGENCIES, FACILITIES AND SERVICES

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ARTICLE I. LICENSING/APPROVAL

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CHAPTER 3680. ADMINISTRATION AND OPERATION OF A CHILDREN AND YOUTH SOCIAL SERVICE AGENCY

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Source

The provisions of this Chapter 3680 adopted July 11, 1980, effective July 12, 1980, 10 Pa.B. 2990, unless otherwise noted.

Cross References

This chapter cited in 55 Pa. Code § 3480.1 (relating to applicability); and 55 Pa. Code § 3480.17 (relating to records).

GENERAL PROVISIONS**§ 3680.1. Applicability.**

(a) With four exceptions, this chapter applies to the administration and operation of an agency, whether public or private, for profit or not-for-profit, which provides the social services specified in subsection (c). This chapter does not govern the administration or operation of probation offices; county children and youth social service agencies governed by Chapter 3130 (relating to administration of county children and youth services programs); child residential and day treatment facilities governed by Chapter 3800 (relating to child residential and day treatment facilities); or child day care facilities governed by Chapters 3270, 3280 and 3290 (relating to child day care centers; group day care homes; and family day care homes).

(b) Social services provided for a child by an agency subject to this chapter include the following:

- (1) Foster family care.
- (2) Adoption services.

(c) An agency that operated solely to provide services to children in their own homes as defined in § 3680.4 (relating to definitions) is not subject to this chapter.

Authority

The provisions of this § 3680.1 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.1 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392; amended June 25, 1999, effective October 26, 1999, 29 Pa.B. 3295. Immediately preceding text appears at serial page (211759).

§ 3680.2. Regulatory goal.

The goal of this chapter is to ensure that a legal entity responsible for the administration and operation of an agency that provides social services for a child does so in a manner that protects the health, safety and rights of the clients receiving services.

Authority

The provisions of this § 3680.2 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.2 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (109565).

§ 3680.3. Legal base.

The legal base of this chapter is Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—210, 701—774, 901—992 and 1001—1080); 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act); and 23 Pa.C.S. §§ 6301—6384 (relating to the Child Protective Services Law).

Authority

The provisions of this § 3680.3 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.3 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (109565) and (88803).

§ 3680.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context indicates otherwise:

Agency—A children and youth social service agency subject to the requirements of this chapter.

Child—An individual who is one of the following:

- (i) Under the age of 18 years.
- (ii) Under the age of 21 years, committed an act of delinquency before reaching the age of 18 years and remains under the jurisdiction of the juvenile court.
- (iii) Under the age of 21 years, was adjudicated dependent before reaching the age of 18 years and, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed.

Client—A person or group of persons, including a child or the child's family, accepted for service by an agency subject to the requirements of this chapter.

County agency—The single county children and youth social service agency.

Department—The Department of Public Welfare of the Commonwealth.

Facility—The physical location or site, including buildings, grounds, supplies and equipment, as well as the staff involved in operating programs governed by this chapter.

Full-day services—A series of activities which provide intervention and protection through care, supervision, treatment or rehabilitation for a child in an out-of-home, 24-hour setting. The term includes services commonly provided in:

- (i) Foster family homes, including the homes of relatives when used as a foster placement.
- (ii) Secure and nonsecure residential child care facilities.
- (iii) Supervised independent living arrangements.
- (iv) Maternity homes.
- (v) Outdoor experiential environments.

Immediate family member—Spouse, children, parents and siblings.

ISP—An individual service plan. A written document describing long-range goals and short-range objectives for the provision of social services for a child.

Legal entity—A person, society, corporation, governing authority or partnership legally responsible for the administration and operation of an agency that provides social services for a child.

Part-day services—A series of activities which provide intervention and protection through care, supervision, treatment or rehabilitation for a child in a non-24-hour supervisory setting. The term includes, for example, services commonly referred to as day treatment and alternative treatment programs.

Passive physical restraint—The least amount of direct physical contact required to prevent immediate harm to a child or others.

Placing agency—The agency or individual with legal authority to refer or place a child for children and youth social services. The term includes courts, county children and youth social service agencies and parents.

Program—A discretely identifiable system of social service interventions designed for use with a specified client group. This discrete system encompasses a series of activities that are used to reach clearly identified intervention goals and objectives. A program may be designed to provide either full-day or part-day services as defined by this chapter.

Related party financial transaction—A financial transaction involving a private agency and an individual, corporation, firm, association or business in which any of the following persons receive a financial benefit or have a financial interest:

- (i) Persons who comprise the legal entity.

- (ii) Employees of a private agency.
- (iii) Shareholders of a private agency.
- (iv) Immediate family members of the persons specified in subparagraphs (i), (ii) and (iii).

The term does not include wages, salaries or employee benefits paid to an employe of a private agency or dividends paid to a shareholder of a private agency.

Services to children in their own homes—Informational, supportive or therapeutic activities, such as counseling, life skills education, information and referral or homemaker/caretaker services provided to a child, primarily to prevent placement or to reunify a child and his family.

Authority

The provisions of this § 3680.4 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.4 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (88803) to (88804).

Cross References

This section cited in 55 Pa. Code § 3680.1 (relating to applicability); and 55 Pa. Code § 3680.41 (relating to program descriptions).

§ 3680.5. Waivers.

(a) A waiver of a requirement of this chapter may be requested, by the legal entity, as specified in procedures established by the Department.

(b) Approval to waive a requirement of this chapter may be granted if the Department has determined that the need for the waiver is not due to simple non-compliance with this chapter, and the approval:

- (1) Does not alter the applicability, scope or purpose of this chapter.
- (2) Is based on evidence, which shall be supplied by the legal entity, that the objective of the requirement is being met in another way.
- (3) Is based on evidence, which shall be supplied by the legal entity, that a waiver will have no adverse effect on the health, safety and rights of a child.
- (4) Does not violate or condone noncompliance with Federal statutes or regulations, Commonwealth statutes and regulations other than the requirement of this chapter for which the waiver is approved.
- (5) Does not jeopardize receipt of Federal monies.
- (6) Is not contrary to a provision in this chapter which may specifically disallow the waiver of a certain requirement.

Authority

The provisions of this § 3680.5 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.5 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (88804) to (88805).

§ 3680.6. [Reserved].**Source**

The provisions of this § 3680.6 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (88805).

§ 3680.7. [Reserved].**Source**

The provisions of this § 3680.7 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (88805) to (88806).

§ 3680.8. [Reserved].**Source**

The provisions of this § 3680.8 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (88806).

GENERAL RESPONSIBILITIES OF THE LEGAL ENTITY**§ 3680.11. Pertinent statutes and regulations.**

(a) The legal entity shall ensure that the agency and programs for which it has legal administrative responsibility are operated in conformity with applicable Federal and State statutes, regulations and local ordinances relating to health, safety and rights.

(b) The legal entity shall ensure that the agency is organized, administered and operated in a manner that ensures compliance with the requirements of this chapter.

Authority

The provisions of this § 3680.11 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.11 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (88807).

§ 3680.12. Approvals by other public agencies.

The legal entity shall ensure that facilities and foster homes which it approves or operates comply with applicable fire, safety and building requirements of the Department of Labor and Industry and local authorities located in Philadelphia, Pittsburgh and Scranton.

Authority

The provisions of this § 3680.12 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.12 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (88807) to (88808).

§ 3680.13. Notification and reporting requirements.

(a) Upon application for licensure or approval, the legal entity shall submit to the appropriate regional office of the Department the names, addresses and telephone numbers of individuals comprising the legal entity and the name of the individual who is responsible for the daily operation of each program for which the legal entity has legal administrative responsibility.

(b) The legal entity shall submit, in writing and within 30 calendar days of occurrence, notification of changes of the person in charge of a program under subsection (a).

(c) The legal entity shall ensure that Departmental requests for information regarding children receiving services from any of the programs operated by the agency are responded to in an accurate and timely fashion.

Authority

The provisions of this § 3680.13 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.13 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (88808).

§ 3680.14. Appeals.

(a) The legal entity has the right to appeal the Department's decisions related to licensure or approval under Chapter 9003 of the Public Welfare Manual published at 7 Pa.B. 3264 (November 5, 1977) to be codified at Chapter 30 (relating to licensure or approval appeal procedures).

(b) The legal entity shall begin the appeal process by filing a written appeal with the Director, Office of Hearings and Appeals, Department of Public Welfare, Post Office Box 2675, Harrisburg, Pennsylvania 17105.

(c) The appeal shall be postmarked no later than 30 calendar days following the date of notice regarding the agency's licensure or approval status.

Authority

The provisions of this § 3680.14 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.14 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (88808).

§ 3680.15. Requirements relating to interstate compacts.

(a) The legal entity shall ensure that agency policies and procedures comply with the requirements of the Interstate Compact on Juveniles in section 731 of the Public Welfare Code (62 P. S. § 731) and the Interstate Compact on the Placement of Children in section 761 of the Public Welfare Code (62 P. S. § 761). These compacts outline procedures that ensure the proper care and supervision of children who cross state boundaries.

(b) Under the Interstate Compact on the Placement of Children, the legal entity shall ensure that the agency applies for and receives approval from the receiving state prior to sending a child to a placement in another state. The approval process is initiated through the Interstate Office of the Department.

(c) If the agency performs adoptive home studies and reviews of proposed placements for other states participating in the Interstate Compact on the Placement of Children, the legal entity shall ensure that the agency does so in conformance with the requirements of the Compact.

Authority

The provisions of this § 3680.15 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.15 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (88808) to (88809).

§ 3680.16. Requirements relating to the interstate placement of children in a noncompact state.

(a) If an agency plans to send a child to a noncompact state for the purpose of placement or adoption, the legal entity shall ensure that the agency first informs the Interstate Office of the Department of its intent to do so. The Interstate Office immediately will send relevant information to the appropriate department of government of the receiving state.

(b) If the agency performs adoptive home studies and reviews of proposed placements in noncompact states, the legal entity shall ensure that the agency does so in conformance with the requirements of section 741 of the Public Welfare Code (62 P. S. § 741).

Authority

The provisions of this § 3680.16 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.16 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (88809) to (88810).

§ 3680.17. Transportation requirements.

(a) The legal entity shall establish, and ensure adherence to, written policies and procedures regarding the transportation of children receiving services.

(b) The policies shall include, at a minimum, the following:

(1) A vehicle used in transporting children while they are receiving services from the agency shall be validly licensed and inspected under 75 Pa.C.S. §§ 101—9901 (relating to the Vehicle Code).

(2) Persons transporting children on behalf of the agency shall possess a valid drivers license for the class of vehicle the person is operating.

(3) The number of persons in a vehicle used to transport children may not exceed the passenger capacity as determined by the vehicle manufacturer. Safety restraints, as installed at the time of manufacturing, shall be used by occupants.

(4) Children who are younger than 4 years of age shall be transported in motor vehicles in accordance with the requirements for parents and guardians under 75 Pa.C.S. § 4581 (relating to restraint systems).

Authority

The provisions of this § 3680.17 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.17 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (88810).

§ 3680.18. [Reserved].**Source**

The provisions of this § 3680.18 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (88810) to (88811).

**AGENCY ADMINISTRATIVE POLICIES,
PROCEDURES AND RESPONSIBILITIES****§ 3680.21. Reports of unusual incidents and child abuse.**

(a) The legal entity shall establish, and ensure adherence to, written policies and procedures relating to the reporting of unusual incidents and child abuse.

(b) The policies and procedures shall include, at a minimum, the following:

(1) The agency shall immediately report an incident of suspected child abuse to ChildLine under, 23 Pa.C.S. §§ 6301—6384 (relating to the Child Protective Services Law).

(2) The agency shall provide information to a county child protective service (CPS) in compliance with the requirements of § 3490.56 (relating to CPS investigation of suspected child abuse perpetrated by persons employed or supervised by child caring agencies and residential facilities).

(3) The agency shall immediately submit an oral report of an incident involving the death of a child receiving services from the agency to the placing agency and to the appropriate regional office of the Department.

(4) Within 24 hours of the occurrence, or within the first succeeding business day after the occurrence, the agency shall submit an oral report of an injury to a child which requires inpatient hospitalization or which, in the opinion of the treating physician, may cause death, serious disability or disfigurement and an occurrence, such as a fire in a foster family home or a residential child care facility, which threatens the health or safety of a child or requires a facility providing residential child care to relocate children temporarily.

(5) The oral report required by paragraph (4) shall be submitted as follows:

(i) To the county agency, if the child is referred for services by a county agency.

(ii) To the court and the appropriate regional office of the Department, if the child is referred for services directly by the court.

(iii) To the appropriate regional office of the Department, if the child is referred for services directly by the parents.

(6) Reports required by paragraphs (3) and (4) shall be followed by written reports on forms provided by the Department within 5 calendar days of the occurrence of the incident. The written reports shall be submitted to the appropriate agencies as specified by paragraph (5).

(7) Oral and written reports required by this section shall provide, at a minimum, the name of the child involved and a full description of the circumstances surrounding the incident, including time, date, place, apparent cause and actions taken or proposed in response to the incident, such as arranging for temporary shelter or medical care and notifying the child's parents if they are not the placing agency.

Authority

The provisions of this § 3680.21 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.21 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

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§ 3680.22. Hiring practices, public and private agencies.

(a) The legal entity shall establish, and ensure adherence to, written policies and procedures regarding the hiring of staff.

(b) The policies and procedures shall include, at a minimum, the following:

(1) Prior to hiring a staff person, a private agency shall obtain the names of at least three persons, other than immediate family members, who can verify the potential employe's education, employment history and serve as a character reference.

(2) The persons identified by the potential employe under paragraph (1) shall be contacted either orally or in writing. Written responses or notations of the results of oral responses shall be kept in the staff person's personnel record.

(3) Staff hired by a public agency shall be hired in accordance with the procedures established by the legal entity.

(4) The agency, whether public or private, may not hire a staff person without first complying with 23 Pa.C.S. § 6344 (relating to information relating to prospective child-care personnel) and Chapter 3490 (relating to protective services).

(5) The agency shall ensure that, no more than 30 days prior to commencing employment, each staff person whose responsibilities include care and supervision of children in daily program activities receives certification from a licensed physician that the staff person has no communicable diseases or physical conditions that might endanger the health and safety of children or prevent the staff person from performing job functions.

(6) If in the course of employment of a staff person there is reason to believe that a medical examination or evaluation is indicated, the agency shall ensure that the staff person receives an appropriate medical examination or evaluation from a licensed physician.

Authority

The provisions of this § 3680.22 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.22 adopted January 23, 1987, effective April 24, 1987, 17 Pa.B. 392.

Cross References

This section cited in 55 Pa. Code § 3680.31 (relating to personnel records).

§ 3680.23. Personnel policies.

(a) The legal entity shall establish a written personnel policy governing the agency and programs for which it has legal administrative responsibility.

(b) The personnel policy shall cover the following areas:

(1) Salaries or wages.

(2) Hours of work.

- (3) Vacation and sick leave.
- (4) Overtime.
- (5) Employee benefits.
- (6) Duties for each job classification.
- (7) Standards for performance ratings and evaluations.
- (8) Grievance and discipline procedures.

Authority

The provisions of this § 3680.23 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.23 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

§ 3680.24. Staff qualifications.

The legal entity shall ensure that the staff qualifications established by applicable service-specific chapters promulgated by the Department are strictly adhered to by the agency.

Authority

The provisions of this § 3680.24 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.24 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

§ 3680.25. Staff orientation and training.

(a) The legal entity shall ensure that the agency conducts required staff orientation and training in accordance with applicable service-specific chapters promulgated by the Department.

(b) If the agency operates programs for which no service-specific chapters apply or if there are no orientation requirements in a service-specific chapter, the legal entity shall ensure that, upon employment, staff persons whose responsibilities include care and supervision of children in daily program activities, as well as the supervisors of those staff persons, participate in an orientation program.

(c) Staff orientation shall provide the staff persons specified in subsection (b) with knowledge and understanding of the following:

- (1) The facility's fire, medical and other emergency procedures.
- (2) The physical layout of the facility in which the program operates, including location of fire alarms, fire extinguishers, telephones and other emergency apparatus.
- (3) The facility's policies and procedures governing the administration of medicine and drugs.

- (4) Job responsibilities.
 - (5) The facility's policies and procedures governing child discipline.
 - (6) Staff responsibilities and duties under 23 Pa.C.S. §§ 6301—6384 (relating to the Child Protective Services Law).
- (d) Orientation may include working with children as long as the staff are not fulfilling the minimum child to staff ratios as established in the program description required by § 3680.41(a) and (b) (relating to program descriptions).
- (e) If the agency operates programs for which no service-specific chapters apply or if there are no training requirements in a service-specific chapter, the legal entity shall ensure that all staff specified in subsection (b) receive, within the first year of employment, 40 hours of training. The training shall include the following:
- (1) Emergency medical first aid training, including Coronary Pulmonary Resuscitation (CPR).
 - (2) Crisis management and passive physical restraint techniques.
 - (3) Information about 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act) and this chapter.
 - (4) Child abuse recognition and staff responsibilities.
 - (5) Basic safety practices, including fire and other emergency evacuation procedures and the use of fire extinguishers.
 - (6) Principles and practice of child care.
- (f) New staff are not required to be trained in an area specified in subsection (e) if they can provide evidence of comparable training.
- (g) The legal entity shall ensure that staff identified in subsection (b) have 40 hours of training annually. Refresher training necessary to maintain skills in first aid, CPR and passive physical restraint may be included as part of the 40 hours of annual staff training.
- (h) At least 20 hours of the annual training required by subsections (e) and (g) shall be provided through one of the following:
- (1) Formal inservice training.
 - (2) Academic programs.
 - (3) Participation in conferences, institutes or workshops.
- (i) Up to 20 hours of the annual training required by subsections (e) and (g) may be provided through supervisory conferences. The schedule of conferences shall be documented in the staff person's personnel record.
- (j) Staff who are not employed on a full-time basis shall receive training in proportion to the number of hours worked per week.

Authority

The provisions of this § 3680.25 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.25 adopted January 23, 1987, effective July 23, 1987, 17 Pa.B. 392.

§ 3680.26. Staffing requirements.

(a) The legal entity shall ensure that programs operated by the agency are operated under the staff-to-child ratios established by applicable service-specific chapters promulgated by the Department.

(b) The legal entity shall ensure that, whenever children are physically present at a program site, there is always a staff person at that site who is designated as responsible for the operation of the program.

(c) The legal entity shall ensure that a staff person responsible for the operation of the program may be contacted if all children and staff are temporarily absent from the program site. Use of a telephone answering service, telephone call-forwarding or similar procedures may be used to meet the requirement of this subsection.

Authority

The provisions of this § 3680.26 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.26 adopted January 23, 1987, effective April 24, 1987, 17 Pa.B. 392.

§ 3680.27. Use of volunteers.

(a) If the legal entity provides for the use of volunteers in its programs, it shall establish, and ensure adherence to, written policies regarding volunteers.

(b) If the policies required by subsection (a) provide for the use of volunteers to fulfill the minimum staffing requirements of other service-specific chapters, the volunteers shall be selected, trained and supervised according to the procedures established for staff persons of a program operated by the agency. The use of volunteers is not subject to the requirements of 23 Pa.C.S. § 6344 (relating to information relating to prospective child-care personnel).

Authority

The provisions of this § 3680.27 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.27 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

§ 3680.28. Civil rights compliance.

(a) The legal entity shall ensure that the agency is administered and operated in compliance with Federal and State civil rights statutes and regulations, which

prohibit discrimination against clients on the basis of race, color, religious creed, ancestry, national origin, age, sex or handicap.

(b) The legal entity shall ensure that no person is denied an employment opportunity or the opportunity to participate as a member of the legal entity or an advisory board of the agency on the basis of race, color, religious creed, ancestry, national origin, age, sex or handicap.

Authority

The provisions of this § 3680.28 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.28 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

PERSONNEL AND CLIENT RECORDS

§ 3680.31. Personnel records.

(a) The legal entity shall ensure that personnel records are maintained for each staff person it employs. The record shall contain at least the following information and additional information required by service-specific chapters:

- (1) A job description.
- (2) A copy of the medical certification required for employment and the results of subsequent examination or evaluation required by § 3680.22(b)(5) and (6) (relating to hiring practices, public and private agencies).
- (3) Evidence of required training and education.
- (4) Employment starting and termination dates.
- (5) A statement, signed by the staff person, indicating that he is familiar with staff duties and responsibilities under 23 Pa.C.S. §§ 6301—6384 (relating to the Child Protective Services Law).

(b) The legal entity shall ensure that staff personnel records are retained for at least 5 years after the staff person's resignation, termination or retirement.

Authority

The provisions of this § 3680.31 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.31 adopted January 23, 1987, effective April 24, 1987, 17 Pa.B. 392.

§ 3680.32. Client records.

The legal entity shall ensure that a complete record for each client receiving services is maintained by the agency. The record shall contain at least the following information and additional information required by service-specific chapters:

- (1) The child's name, sex, date of birth and, except for an emergency placement, proof of age, such as a copy of a birth certificate, school record or court order in which age is documented.
- (2) The name, address and phone number of the parents or guardian, as well as the name and phone number of the person to contact in an emergency, if different from the parents or guardian.
- (3) The name and address of the placing agency.
- (4) The date the client was accepted for service and the date of termination of service.
- (5) Notation that the agency grievance procedure was explained to the child upon the child's acceptance for service.
- (6) Authorization, signed by the placing agency, to provide services for the child or the family.
- (7) Copies of court orders or court statements relating to the provision or termination of services, including authorization for emergency medical or other court-ordered services and transfer or discharge orders.
- (8) Interstate Compact approval, if applicable, for children who are not residents of this Commonwealth.
- (9) Family service plan information, as provided by the placing agency or other social service agency.
- (10) Educational reports and records.
- (11) The ISP, including brief, periodic reports relating to service activities.
- (12) The emergency placement plan, if applicable.
- (13) The results of required placement reviews, if applicable.
- (14) Medical and dental records, if applicable.
- (15) Necessary signed consent forms.
- (16) The name, address, phone number and relationship of the person, agency or facility to whom the child is discharged or transferred, if the child is receiving full-day services.

Authority

The provisions of this § 3680.32 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.32 adopted January 23, 1987, effective July 23, 1987, 17 Pa.B. 392.

§ 3680.33. Maintenance and retention of client records.

- (a) The legal entity shall ensure that client records are maintained so that the Department may obtain, upon request, an up-to-date listing of each child or family receiving services.
- (b) Client records shall be retained for 5 years following termination of services.

Authority

The provisions of this § 3680.33 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.33 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

§ 3680.34. Confidentiality of client records.

(a) Information that may identify a child or the family, as well as other information contained in the client record, is confidential.

(b) The legal entity shall ensure that no staff person discloses or makes use of information, directly or indirectly, concerning a child or the family, or both, other than in the course of the performance of his duties.

Authority

The provisions of this § 3680.34 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.34 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

§ 3680.35. Release of information in client records.

(a) The legal entity shall establish, and ensure adherence to, written policies and procedures regarding the release of information contained in client records.

(b) The policies and procedures shall include, at a minimum, the following provisions:

(1) Information contained in a client record. The information shall be disclosed, upon request, to:

- (i) A child's parents or guardian.
- (ii) A child's or parent's attorney.
- (iii) A court and court services—probation—staff or county agency staff.
- (iv) Authorized agents of the Department.

(v) The child, if 14 years of age or older. The agency may withhold from a child information which it has good reason to believe will be harmful to the child. The basis for withholding information from a child shall be recorded in the child's case record.

(2) A requirement that the placing agency concurrence shall be obtained prior to withholding information from a child who requests information from his record.

(3) A stipulation that information contained in the client record may be released to volunteers and other providers of services. The amount and type of information to be released shall be determined by the legal entity and shall be

limited to information needed by the service provider to carry out its responsibilities. The decision to release information shall be based on the legal entity's assessment of the individual case record and the responsibilities of a service provider. Information released may include part or all of the case record.

(4) A stipulation that information from the client record may not be released to a person or agency other than those specified in paragraphs (1) and (3) without prior authorization of the court.

(5) A stipulation that information from a record may be made available only when the information being released does not contain material which violates the right to privacy of another individual or is protected or made confidential by law, or both. This may not be construed to protect the right to privacy of a staff person employed by the agency.

(6) A stipulation that to the extent that information contained in the client record is protected by 23 Pa.C.S. Part III (relating to the Adoption Act), 23 Pa.C.S. §§ 6301—6384 (relating to the Child Protective Services Law) and Chapter 3490 (relating to protective services), and that access to and release of information shall be in accordance with the statutes and this title.

(c) The legal entity may use, or authorize the use of, information contained in a client record for teaching or research purposes. Information used for teaching or research may not include names or other information which might identify, directly or indirectly, persons receiving services from the agency.

(d) The legal entity shall approve or disapprove, in writing, requests from persons not employed by the agency who wish to conduct research using client records.

Authority

The provisions of this § 3680.35 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.35 adopted January 23, 1987, effective July 23, 1987, 17 Pa.B. 392.

PROGRAM RESPONSIBILITIES

§ 3680.41. Program descriptions.

(a) The legal entity shall ensure that a separate program description for each service that it provides is developed. The services are the full-day services and part-day services as defined in § 3680.4 (relating to definitions). The program descriptions shall be made available to the Department and the placing agency.

(b) The program description shall contain the following information, as well as additional information required by other applicable service-specific chapters:

(1) Easily identifiable program activities and objectives and anticipated outcomes.

- (2) The criteria and procedures for acceptance of a client into the program.
 - (3) A description of the number and types of clients served, including age, sex and significant emotional or behavioral characteristics.
 - (4) The basis, such as age, sex or other characteristics, for assigning clients to, or grouping them within, a program.
 - (5) The method by which the program services are delivered; whether they are provided directly by the agency or through some other form of written agreement with another social service agency.
 - (6) The number, and qualifications, of staff responsible for providing the program services, including identification of the person responsible for administering the program.
 - (7) The degree and method of family involvement in the program.
 - (8) Other professional services available to a client, such as psychological and psychiatric services. The program description shall detail the extent to which these services are available, including number of staff available to provide the service and the average number of hours per week the service is available.
 - (9) Behavior management policies and techniques.
 - (10) Discipline practices followed by staff in accordance with policies established by the legal entity.
 - (11) Educational or vocational training services provided, if applicable.
 - (12) Recreational activities conducted as a part of the program of services, if applicable.
 - (13) Methods used to maintain family involvement.
 - (14) Policies and arrangements regarding religious observances, if applicable.
- (c) The legal entity shall ensure that a program is operated in accordance with the information in the program description required by subsections (a) and (b).
- (d) If a program description developed under subsection (b) is amended or modified, the Department and the placing agency shall be given written notice of the program change within 30 days of its occurrence.

Authority

The provisions of this § 3680.41 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.41 adopted January 23, 1987, effective January 24, 1988, 17 Pa.B. 392.

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Cross References

This section cited in 55 Pa. Code § 3680.25 (relating to staff orientation and training); and 55 Pa. Code § 3680.61 (relating to fiscal responsibilities).

§ 3680.42. Individual service plan (ISP).

(a) The legal entity shall ensure that, within 30 days of acceptance for service, an ISP is developed and implemented for a child. The ISP shall identify the daily care and treatment which will be provided to the child and shall include the following:

(1) A statement of goals to be achieved, including specific time-limited objectives which relate to the need for service.

(2) Specific activities and services planned to achieve the established goals and objectives including, at a minimum, a description of educational, vocational and specialized treatment activities in which the child will participate.

(3) A schedule of the child's visits with parents, if the child is receiving full-day services.

(4) Identification of the persons responsible for implementing, or coordinating the implementation of, the ISP.

(b) By July 24, 1987, an ISP for children already receiving services shall be developed.

(c) An opportunity to participate in the development of the ISP shall be provided to the following persons:

(1) The parents or guardian.

(2) The child, if capable of participating.

(3) A representative of the placing agency, if other than the parents or guardian.

(d) The ISP shall be signed by the agency administrator or a designee. The persons specified in subsection (c) shall be given the opportunity to sign the ISP and shall be given a copy of the plan when it is completed.

(e) A copy of the ISP shall be kept in a client's record.

(f) A client's ISP shall be formally reviewed at least once every 6 months to determine progress in achieving the established goals and objectives. The first review of the child's ISP shall occur no later than 6 months from the date of the child's acceptance for service. For children already receiving service on January 24, 1987, the review shall occur no later than 6 months from the date of the initial ISP. Subsequent reviews of the ISP—those following the first review—shall be held no later than 6 months from the date of the previous review. If appropriate, the ISP shall be modified or revised as a result of the review. Results of the review shall be kept in the client's record. Persons specified in subsection (c) shall be given an opportunity to participate in the review and shall be given a copy of revisions to the ISP made as a result of the review.

(g) A report on the child's progress shall be submitted at least quarterly to the placing agency. The results of the most current 6-month review of the ISP may be used to meet this requirement.

Authority

The provisions of this § 3680.42 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.42 adopted January 23, 1987, effective April 24, 1987, 17 Pa.B. 392.

§ 3680.43. Agency discipline.

(a) The legal entity shall ensure that a discipline policy is developed in accordance with the requirements established by an applicable service-specific chapter promulgated by the Department.

(b) If the agency operates programs for which no service-specific chapters apply, the legal entity shall establish, and ensure adherence to, a written policy governing the discipline of children.

(c) The policy shall:

- (1) Stress praise and encouragement.
- (2) Prohibit abusive or degrading practices, including:
 - (i) Ridicule, verbal abuse or threats, or derogatory or humiliating remarks.
 - (ii) Physical punishment inflicted upon the body.
 - (iii) Punishment for bedwetting or actions related to toilet training.
 - (iv) Delegation of discipline to another child or group of children, except as part of an organized self-government program that is conducted in accordance with written policy and directly supervised by staff.
 - (v) Denial of food, water, shelter, sufficient sleep, clothing or bedding.
 - (vi) Denial of elements of the individual service plan (ISP).
 - (vii) Denial of communication with or visiting by or with the family.
 - (viii) Assignment of physically strenuous exercise or work solely as punishment.
 - (ix) Requiring a child to remain silent for long periods of time.
 - (x) Group punishment for the misbehavior of an individual child.
 - (xi) Delegation of discipline to persons not known by the child.

(d) With the exception of programs subject to Title 6500 of the Children and Youth Manual to be codified at Chapter 3820 (relating to secure residential facility) and Chapter 3760 (relating to secure detention facility), no programs operated by the agency may use a method of physical restraint, isolation, security or physical barriers which prohibit a child's egress. Locks may be used only as a means of external security to keep persons out or to deny access to a certain area of the facility in which the program operates.

(e) With the exceptions noted in subsection (d), the agency shall ensure that the programs it operates use only passive physical restraint to control a child's behavior.

Authority

The provisions of this § 3680.43 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.43 adopted January 23, 1987, effective July 23, 1987, 17 Pa.B. 392.

§ 3680.44. Visiting and communication.

The legal entity shall ensure that visiting and communication policies governing children receiving full-day services are developed in accordance with the following requirements:

(1) If the agency provides full-day services to a child referred by a county agency, it shall ensure compliance with the family service plan relating to child and family visiting and communication.

(2) If the agency provides full-day services to a child placed by other than a county agency or the child's parents, the agency shall adhere to the following requirements:

(i) The agency shall provide opportunity for visits between the child and the parents as frequently as possible but no less than once every 2 weeks.

(ii) Visiting shall occur at a time and place convenient to the parties and in a location that permits natural interaction.

(iii) An exception to the visiting requirements is allowed if any of the following conditions exist:

(A) Visiting is clearly not in keeping with the placement goal, that is, adoption or independent living.

(B) Visiting is freely refused in writing by the parents.

(C) Visiting is limited or prohibited by court order.

(iv) The agency shall, within 24 hours of a child's placement, provide the parents with:

(A) A telephone number that provides 24-hour access to the agency.

(B) A written statement regarding the opportunity for visits, as outlined in subparagraphs (i)—(iii).

(v) The agency shall, within 15 calendar days of accepting a child for placement, provide the parents with the following:

(A) The address of the physical location of the child.

(B) The name of the person or facility responsible for the child's care, unless the release of the information threatens the health and well-being of the child or of the persons providing the care if the agency documents its

basis for its refusal to disclose the information or release of the information is limited or prohibited by court order.

(vi) The agency shall, for children in placement on January 24, 1987 provide the parents of the children with the information required by subparagraphs (iv) and (v) by July 24, 1987.

(vii) Except in an emergency, the agency shall notify the parents and child prior to a change in the physical location of placement or the visiting arrangements. If the agency changes the physical location of the child, the agency shall, within 15 days of the change, provide the parents of the child in placement with the address of the physical location of the child and the name of the person or agency responsible for the child's care, unless disclosure of the information is a threat to the health and well-being of the child or persons providing care to the child or is limited or prohibited by court order. The basis for the agency's decision to refuse disclosure shall be documented in the case record.

Authority

The provisions of this § 3680.44 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.44 adopted January 23, 1987, effective April 24, 1987, 17 Pa.B. 392.

§ 3680.45. Children's money.

(a) The legal entity shall ensure that a written policy governing money acquired or received by children receiving full-day services is developed. The policy shall include, at a minimum, the following provisions:

(1) Money earned, received as a gift or received as allowance by a child is the child's personal property.

(2) Limitations may be placed on the amount of money to which a child has access.

(b) The legal entity shall ensure that a separate system is maintained for the money of children in placement. Interest earned on a child's money shall be applied to the child's account.

(c) Money in a child's account shall be returned to the child when the child leaves placement.

Authority

The provisions of this § 3680.45 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.45 adopted January 23, 1987, effective April 24, 1987, 17 Pa.B. 392.

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§ 3680.46. Religious practices.

The legal entity shall ensure that a child receiving services has an opportunity to participate in religious activities, services and counseling, taking into account choices specified by the parents or guardian or the child.

Authority

The provisions of this § 3680.46 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.46 adopted January 23, 1987, effective April 24, 1987, 17 Pa.B. 392.

Notes of Decisions*Parental Rights*

After a child is placed in foster care, a parent's right to control the child's religious training is no longer absolute. Therefore, it is appropriate, when the initial placement is made, to give some weight to the child's and or the parent's religious background and place the child in a setting consistent with that background; however, that concern does not outweigh all other considerations relative to the development and well being of the child and may be overridden by such concerns. So long as the state makes reasonable efforts to assure that the religious needs of the children are met during the interval in which the state assumes parental rights, the free exercise rights of the parents and their children are adequately observed. *Walker v. Johnson*, 43 F.3d 48, 30 Fed. R. Serv. 3d (Callaghan) 1469 (3rd Cir. 1994).

§ 3680.47. Education.

(a) Children who receive services from the agency shall be enrolled in, or have access to, education, in conformance with the Public School Code of 1949 (24 P. S. §§ 1-101—27-2702).

(b) If the legal entity is responsible for a program which provides, as one of its services, an agency-operated school program, the school program shall comply with applicable requirements of the Department of Education.

(c) If a child receiving services is beyond the age of compulsory school attendance, the child shall have an opportunity to obtain career counseling or continuing education.

Authority

The provisions of this § 3680.47 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.47 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

§ 3680.48. Children's grievances.

(a) The legal entity shall ensure that a written policy and procedure governing the filing of a grievance by children is developed and implemented.

(b) The grievance procedure shall be written in a clearly understandable fashion and shall be designed so that children may file grievances without fear of retaliation.

(c) The procedure shall be explained to the child as soon as the child begins to receive services.

(d) Notation shall be made in a child's record that the agency's grievance procedure was explained to the child.

(e) The grievance procedure shall be explained to children who can be reasonably expected to understand it, as determined by the legal entity.

Authority

The provisions of this § 3680.48 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.48 adopted January 23, 1987, effective July 23, 1987, 17 Pa.B. 392.

HEALTH, MEDICAL AND DENTAL CARE

§ 3680.51. Health care policies and procedures.

The legal entity shall ensure that written policies and procedures governing the provision of health, medical and dental care and the administration of both prescription—including psychotropic—and nonprescription medication are developed in accordance with applicable service-specific chapters promulgated by the Department.

Authority

The provisions of this § 3680.51 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.51 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

§ 3680.52. Consent to treatment.

The agency shall comply with the following requirements relating to consent for medical and dental examination and treatment prior to undertaking to provide treatment or examination to a child:

(1) If the placing agency is a county children and youth social service agency, obtain consent from that agency as required by § 3130.91 (relating to consent to treatment).

(2) If the placing agency is a child's parent or guardian:

- (i) Obtain prior written consent for routine treatment from the parent or guardian. Examples of routine treatment include well baby visits, immunizations and treatment for ordinary illnesses.
 - (ii) Obtain consent for each instance of nonroutine treatment from the child's parent or guardian. Examples of nonroutine treatment include non-emergency surgery, cosmetic surgery and experimental procedures or treatment.
 - (iii) Obtain an order of the court authorizing routine or nonroutine treatment if the child's parent or guardian refuses, or cannot be located to provide consent.
- (3) If the child is placed by an individual who, or agency—other than a county children and youth social service agency—which, has legal custody of the child under 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act) one of the following applies:
- (i) Obtain prior written consent for routine treatment from the child's legal custodian and obtain consent for each instance of nonroutine treatment from the child's parent or guardian.
 - (ii) Obtain an order of the court authorizing routine or nonroutine treatment if the child's custodian or parent refuses, or cannot be located to provide consent.
- (4) If the child requires emergency treatment, immediately take the child to a physician for treatment. In those instances it is not necessary to obtain or provide consent when, in the physician's judgment, an attempt to secure consent would result in delay of treatment which would increase the risk to the child's life or health.
- (5) A minor may consent to medical treatment for conditions relating to drug and alcohol use, pregnancy and venereal disease and under those circumstances specified by the act of February 13, 1970 (P. L. 19, No. 10) (35 P. S. §§ 10101—10105). In these instances, it is not necessary to obtain the consent of another person or the court.
- (6) Under the Mental Health Procedures Act (50 P. S. §§ 7101—7503), a child who is 14 years of age or older shall consent to mental health treatment, including the administration of psychotropic medication. If a child refuses to give consent, a court order for involuntary treatment shall be obtained under Article III of the Mental Health Procedures Act (50 P. S. §§ 7301—7306). The consent of the parent, guardian or legal custodian, is not valid in these instances.
- (7) A minor who seeks consent for a physician to perform an abortion shall comply with applicable law.

Authority

The provisions of this § 3680.52 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.52 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

**FISCAL RESPONSIBILITIES AND PURCHASE OF SERVICE
AGREEMENTS WITH OTHER LEGAL ENTITIES****§ 3680.61. Fiscal responsibilities.**

(a) The legal entity shall adopt an annual budget which encompasses services provided directly by the agency or through purchase of service agreements.

(b) The legal entity shall adopt a budget for an ensuing year prior to the end of the agency's fiscal or calendar year.

(c) The legal entity shall ensure that the agency is administered and operated in a manner that:

(1) Maintains the fiscal stability necessary to provide the services the agency purports to provide in its program descriptions as required at § 3680.41(a) and (b) (relating to program description).

(2) Maintains systems and procedures for the management of funds, real properties and securities according to accepted business and accounting practices, including the establishment of a fee schedule for clients directly accepted for service by the agency.

(3) Establishes a basis for negotiating rates for services provided through purchase of service agreements.

(d) The legal entity shall ensure that the agency maintains insurance protection for its clients, funds and properties. Insurance coverage shall include:

(1) Fire.

(2) Theft.

(3) Liability.

(4) Health and accident.

(5) Workman's compensation.

(6) First party liability arising through the use of a vehicle to transport a client receiving services in accordance with 75 Pa.C.S. §§ 1701—1798 (relating to the Motor Vehicle Financial Responsibility Law).

(e) The legal entity shall maintain a file, current at all times, of existing purchase of service agreements.

(f) The legal entity shall ensure that the agency is audited annually by an independent certified or registered accountant.

(g) The legal entity shall submit annually to a county agency for which it provides services, a financial disclosure statement setting forth the manner and amount of public money which was received and expended by it, under each purchase of service agreement that it enters into with a county agency.

Authority

The provisions of this § 3680.61 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.61 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

§ 3680.62. Service relationship with a county agency.

(a) If the agency is one which regularly accepts clients for service from, or maintains a continuing relationship with, a county agency, court services unit or a juvenile court, the legal entity shall ensure that it maintains a written purchase of service agreement with the county agency.

(b) Services governed by Chapter 3490 (relating to protective services) may be provided only if the service is supplemental to the county agency's direct provision of the service. Provision of the service may not include the investigation of child abuse reports.

(c) Services governed by Chapter 3480 (Reserved) may be provided for the county agency only as a supplement to the county agency's direct provision of the service.

(d) The legal entity may act as the agent of the public agency in arranging for the development and implementation of a child's IEP, under 45 CFR 201—282 and 301—307 (relating to Office of Family Assistance (assistance programs)), Department of Health and Human Services and Office of Child Support Enforcement (Child Support Enforcement Program), or the Federal regulations implementing the Education of the Handicapped Act (20 U.S.C.A. §§ 1401—1461). The role of the legal entity, if acting in this capacity, shall be clearly stated in the purchase of service agreement with the county agency. If the child requires assignment of a surrogate parent, agency employes or members of the legal entity may not serve as the child's surrogate parent.

(e) The legal entity shall consider the rate for services agreed upon in its purchase of service agreement with the county agency as payment in full whenever the agency provides services under the agreement. Funds, including third party entitlements or parental support payments, may not be collected on behalf of a child to whom services are being provided under a purchase of service agreement with a county agency.

Authority

The provisions of this § 3680.62 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.62 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

§ 3680.63. Conflict of interest.

(a) The following persons may not comprise the legal entity of a private agency:

(1) An employe of a public agency, or an official of a political subdivision, which purchases services from the agency.

(2) Immediate family members of the persons specified in paragraph (1).

(b) No government funds may be used by a private agency in a related party financial transaction without a prior written determination by the Department that the transaction is at a competitive cost or under terms more favorable to the agency.

(c) In requesting a determination by the Department under subsection (b), the private agency shall do the following:

(1) Clearly outline the terms of the agreement.

(2) Demonstrate that the agreement is at a competitive cost or under terms more favorable to the agency.

Authority

The provisions of this § 3680.63 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3680.63 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

[Next page is 3700-1.]

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