

*Licensing
Regulations for*
**Commissioner-
Designated
Shelter Programs
in Vermont**



Note to Readers

These regulations were adopted in March of 2003 and reflect state law in effect at that time.

For More Information

Residential Licensing and Special Investigations Unit
Family Services Division
Vermont Department for Children and Families
(802) 241-2131

dcf.vermont.gov/fsd

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Scope And Applicability Of Regulations

33 V.S.A. § 5512 authorizes the Commissioner of the Department for Children and Families (“commissioner” and “department” or “DCF”) to designate facilities as qualified to house and assist children who have run away from their parents, guardian, or legal custodian for the purpose of reuniting them with their families. (“Commissioner-Designated Shelter” or “CDS”). These regulations set forth the requirements for the receipt and maintenance of a commissioner’s designation. They are intended to ensure that Commissioner-Designated Shelters provide the children they serve with a basic quality of care, health, and safety. They are also intended to ensure that Commissioner-Designated Shelters respect the rights of parents, guardians, and custodians of children who have run away and that they fulfill their purpose of assisting children to reunite with their families.

Statutory Authority

33 V.S.A. § 5510(4) provides that a child may be taken into custody “by a law enforcement officer when he has reasonable grounds to believe that the child has run away from his parents, guardian, or legal custodian.”

33 V.S.A. § 5511 provides that, when a law enforcement officer has taken a child into custody pursuant to 33 V.S.A. § 5510(4), “the law enforcement officer may deliver the child to any organization designated by the commissioner for DCF as qualified to assist children who have run away for the purpose of reuniting them with their parents, guardian or legal custodian.”

33 V.S.A. § 5512 provides:

- a. The commissioner for DCF shall designate shelters throughout the state where a child taken into custody pursuant to section 5510(4) of this title may be housed for a period not to exceed 7 days.
- b. Upon delivery of a child to a designated shelter program, the shelter program director or his or her designee, shall:
 - i. Notify the child’s parents, guardian or custodian that the child has been taken into custody
 - ii. Make reasonable efforts to mediate the differences between the parties

- c. Upon expiration of the period referred to in subsection (a) of this section or at the request of the child or the parents:
 - i. The child shall be released to his or her parents, guardian or custodian
 - ii. A law enforcement officer shall deliver the child to the juvenile court pursuant to section 5511(2) of this title
- d. During the period of time the child is at the shelter, the legal custody of the child shall remain with the parent, unless otherwise designated by the juvenile court.

Application For Designation

A. An application for a shelter designation may be obtained by contacting:

DCF - Family Services Division
Residential Licensing and Special Investigations Unit
280 State Drive, HC 1 North, Building B
Waterbury, Vermont 05671-1030
(802) 241-2131

B. Form and Content of Application for Shelter Designation.

Application for designation renewal shall be made in accordance with the policies and procedures of the Department.

C. Application Review. Certificate of Designation.

1. Upon receipt of the completed application, DCF will conduct a designation review. If the department determines that the applicant meets all of the criteria set forth below, the department will issue to the applicant a certificate, acknowledging its designation as an organization qualified to house and assist run away children.
2. The department may deny the issuance of a designation if it has found that the applicant has not complied with any provision set forth in these regulations.
3. The department may attach conditions to a designation or issue a provisional designation when conditions warrant.
4. Designation certificates shall be valid for a period of one year, following the date of issuance and must be renewed annually.

Renewal

A. Application Process.

Application for designation renewal shall be made in accordance with the policies and procedures of the department.

B. Continuation of Designation During Pendency of Renewal Process.

When a CDS has made timely and sufficient application for designation renewal, the existing designation does not expire until the application for designation renewal has been acted upon by the department.

Compliance And Enforcement

A. Necessity of Designation.

No CDS shall be operated without the formal prior approval of the commissioner or the commissioner's designee.

B. Variances.

1. A CDS shall comply with all applicable regulatory requirements unless the department has issued the CDS a written variance for specific requirements.
2. A variance for a specific requirement shall be granted only when the CDS has documented that the intent of the requirement will be satisfactorily achieved in a manner other than that prescribed by the requirement.
3. When a CDS fails to comply with the terms of the variance, the variance shall be subject to immediate cancellation.

C. Violations.

1. If, at any time after the issuance of a designation certificate, the department finds that the CDS is in violation of any applicable law or regulation, the department may notify the CDS of its intention to revoke its designation. If the department elects to notify the CDS of its intention to revoke its designation, the CDS may continue to operate, should it elect to grieve the department's action and pursue an appeal of the decision to the Human Services Board.

2. When there is reason to believe that the health, safety, or well-being of children served is immediately imperiled, the designation may be suspended. Upon suspension of the designation, the organization must immediately cease operating as a CDS.
3. At the department's discretion, the department may offer a CDS that is in violation of applicable law or regulation, the opportunity to develop a program improvement plan whereby the violations will be corrected within a time period specified by the department. Such opportunity may not be provided when the violation poses risk of harm or is of a repeated nature.
4. A CDS or applicant that provides false information or that causes the department to receive false information, may have its designation denied, suspended and/or revoked.

D. Revocation and Suspension.

1. If the department elects to revoke or suspend the CDS's designation, the department shall communicate its decision to the CDS in writing, and shall set forth the facts or conduct the department believes warrants the action. This notice shall advise the CDS of its right to a hearing and an appeal.
2. The department may notify the CDS's clients of its action or proposed action in the event that the designation has been suspended or is the subject of an intended revocation.

E. Grievances and Appeals.

1. An applicant that has been denied designation, or a CDS that has received notice of the department's intention to revoke or of the department's decision to suspend its designation will be granted a fair hearing before the Human Services Board upon request. Rules governing the conduct of fair hearings are available from:

Human Services Board

120 State Street, Montpelier, Vermont 05620-4301

(802) 828-2536

2. If a CDS is aggrieved by the department's action, the CDS must indicate to the department or the Human Services Board that it wishes to challenge the action within thirty (30) days from the date of the mailing of the department's notice of action.

3. Such a grievance shall also be considered a request for a fair hearing before the Human Services Board pursuant to 3 V.S.A. § 3091. If the CDS has not already requested a fair hearing, the department shall notify the Board of the CDS's request.
4. Within fifteen (15) working days of the department's receipt of the grievance, the commissioner shall schedule a review of the intended action and provide the CDS with an opportunity to be heard with regard to the intended action.
5. The CDS may submit a written response to the department's notice of action or may present its position to the commissioner or designee, in person or through an attorney or other representative. At that time, the CDS may bring witnesses, documents, or present any other evidence in its behalf.
6. The burden of proving facts alleged as the basis for the intended action shall be on the department.
7. After the review, the commissioner shall notify the applicant or CDS in writing of the department's decision regarding the application or action. If the commissioner affirms the department's action, an appeal will be conducted according to the rules of the Human Services Board.
8. Notice of the department's intended action shall be posted in a place where clients can see and read it.
9. Unless the designation has been suspended, it shall remain in effect until the Human Services Board enters its final decision on the appeal.

Relationship Between a CDS and the Department

A. Inspection of Premises, Books, Records; Access to Staff and Clients.

1. A CDS shall permit representatives of the department to visit and inspect its facilities and the homes used to house children.
2. A CDS shall permit representatives of the department to inspect and examine its records, equipment, and materials.

3. Upon request, a CDS shall provide the department with a list of the names, addresses and telephone numbers of families served during the prior twelve months. The department shall contact the CDS by telephone, or in writing, to inform the CDS such a request.
4. A CDS shall allow representatives of the department to interview any employee or volunteer of the CDS or any child served by the CDS.
5. A CDS shall make available to the department any information reasonably required for the assessment of compliance with these regulations.

Organizational Requirements

A. Purpose and Incorporation.

1. Every CDS shall be incorporated. If incorporated outside the State of Vermont, it shall secure authorization from the Secretary of State to do business in Vermont.
2. The purpose or purposes of the CDS shall be set forth in the Articles of Incorporation and by-laws under which the CDS operates.

B. The Governing Body.

A CDS shall have a governing body that has the ultimate authority for the program and is responsible for assuring the CDS's continuous compliance and conformity with the provisions of the state law and regulations regarding the operation of a CDS.

C. Program Description.

A CDS shall have a written program description that outlines all programs operated by the CDS.

D. Insurance Coverage.

A CDS shall carry insurance covering fire and liability as protection for children in care. In addition, the CDS shall have insurance that covers liability to third parties or children in care arising through the use of any vehicle, whether owned or not by the facility, used by any of the facility's staff or agents on the facility's business.

E. Administration.

1. The CDS program administrator shall establish and maintain documentation of its compliance with these regulations and insure that such documentation be made available to the department upon request, for the purposes of assuring compliance with these regulations.
2. A CDS shall notify the department at least 90 days before any of the following:
 - i. a planned change of ownership and/or sponsorship
 - ii. a planned change of location
 - iii. a planned change in the name of the CDS
 - iv. a substantial planned change in services provided or population served
3. The CDS shall give notice as soon as possible if any of the changes listed in the paragraph above occurs without prior planning.
4. A CDS shall provide a 24-hour on-call system to ensure that personnel of the organization are able to respond to the needs of runaway youth 24 hours a day, 365 days a year.

Recordkeeping And Privacy

A. Records and Privacy of Information Regarding Children and Families Served.

1. A CDS shall have written procedures for the maintenance, security, and protection of records, specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the CDS. The CDS shall secure records, including electronic records, against loss, tampering, and unauthorized use.
2. A CDS shall have a written policy for protection of the confidentiality of all case records. This policy shall not conflict with relevant state and federal law, and shall, at a minimum, provide that:
 - i. Any information concerning assistance to children and their families will not be disclosed without the authorization of the child and the child's parent(s), guardian, or custodian, unless required by law.

- ii. Staff shall be made aware of the need for protection of confidential information, whether written or oral.
 - iii. Access to confidential information among the staff shall be on a need-to-know basis.
3. A CDS will comply with all applicable state or federal laws or regulations regarding the privacy of information concerning the children and families it serves.

B. Case Records.

1. A CDS shall maintain a separate written record for each child. Individual client files must, at a minimum, include current and consistent intake forms which contain the basic demographic and background information; counseling notations; information about services provided both directly and through referrals to community agencies and individuals; case disposition information; discharge data; and any followup and evaluation data.
2. The content and format of all case records shall be uniform within the CDS. Files must be systematically organized and maintained in a secure place, easily accessible to project staff. Files should have a clear, consistent, and logical flow of information.

Staff

A. Minimum Requirements.

1. A CDS shall not hire or continue to employ any person whose health, educational achievement or behavior and actions impair his or her ability to protect the health and safety of the children served, or is such that it might endanger the physical or emotional well-being of the children served.
2. The following persons are prohibited from operating, residing at, being employed at, or volunteering for a CDS, or a home that provides shelter services to a CDS:
 - i. persons convicted of fraud, a felony, or an offense involving violence or unlawful sexual activity or other bodily injury to another person including, but not limited to abuse, neglect, or sexual activity with a child

- ii. persons found by a court to have abused, neglected, or mistreated a child
 - iii. adults or children who have had a report of abuse or neglect substantiated against them under Chapters 49 or 69 of Title 33 of the Vermont Statutes Annotated
3. Persons prohibited in the section above may be present at or employed in a CDS if the CDS and the persons involved request a waiver from the prohibition and evidence acceptable to the commissioner is presented that shows suitability or rehabilitation sufficient to warrant their participation or presence in a child care setting.

B. References and Background Checks.

1. To effectively regulate CDSs, the department must be able to assess whether current or prospective employees; volunteers; or shelter parents and household members, 16 years of age or older, have been convicted of crimes that may render them unsuitable to provide care or services to children. Therefore, pursuant to the provisions of 33 V.S.A. § 309(a), the commissioner has determined that access to records of conviction of such individuals is necessary to regulate these facilities.
2. A CDS shall condition any offer of employment or of a voluntary position upon the department's determination that the employee or volunteer (and if the employee or volunteer is to be a shelter parent, the individual's household members, 16 years of age or older) is not a prohibited person, as set forth in the paragraph above. No later than 15 days after it has extended a conditional offer of employment or a voluntary position to a person, the CDS shall furnish the department with the prospective employee or volunteer's written authorization to conduct a criminal-history and child- and adult-abuse registry check and any other background checks that the department may require. The authorization shall contain the name, signature, birth date, place of birth, and social security number of that person, and the same information for any household members who are subject to background checks.

3. A CDS shall require written references or written telephone notes on such references before hiring staff who will work directly with children.

Child Abuse And Neglect

A. Mandatory Reporting.

1. A CDS shall report any suspected or alleged incident of child abuse or neglect to the appropriate state authority and cooperate fully in the investigation of any incident.
2. A CDS shall have a written policy which is known to all staff that requires the CDS as well as staff who have a reasonable cause to believe that any child has been abused or neglected to report or cause a report to be made to the department within 24 hours. If staff has followed the written policy of the CDS in making abuse reports, then the CDS may not terminate the employment of or take any other adverse action toward the staff person for making the report.
3. The CDS shall not discharge; demote; transfer; reduce pay, benefits, or work privileges; prepare a negative word performance evaluation; or take any other action detrimental to any employee because the employee filed a good-faith report regarding suspicion of abuse.

Program Requirements

A. CDS's Responsibilities to Parents, Guardians, and Custodians of Children Served.

1. Upon delivery of a child to a CDS, the CDS program director or the CDS program director's designee shall:
 - i. Notify the child's parents, guardian, or custodian that the child has been taken into custody. Such notification shall be made immediately upon the delivery of the child to the CDS. However, if the child's parent, guardian or custodian cannot be immediately contacted, such notification shall be made within 24 hours of the time of the child's delivery to the CDS.
 - ii. Make reasonable efforts to mediate the differences between the parties.

B. Physical Environment and Safety.

1. Any CDS facility in which a child is housed will be inspected by the program and found to be a clean safe, healthy, and secure place for a child to be placed.
2. Every building or part of a building used by a CDS for shelter shall be in compliance with federal, state, local, and municipal laws and regulations.

C. Duration of a Child's Stay in a CDS and Discharge.

1. No child shall be housed by a CDS for a period in excess of the maximum period allowed by law.
2. At the expiration of the maximum housing period, or at any time, upon the request of the child or the parent(s), guardian, or custodian, a CDS shall:
 - i. release the child to his or her parents, guardian, or custodian; or
 - ii. seek the assistance of a law enforcement officer to deliver the child to the juvenile court, pursuant to the provisions of 33 V.S.A. § 5511(2). 11

D. Cooperation with Other Community Providers.

1. A CDS shall establish protocols for coordination and cooperation with other community providers of services to runaway youth.

Other Applicable Standards

A. The U.S. Department of Health and Human Service's Runaway and Homeless Youth Grant Program Plan Requirements.

1. In addition to the performance standards set forth in these regulations, a CDS must be in compliance with the program plan requirements of the U.S. Department of Health and Human Services's Runaway and Homeless Youth Grant Program ("the federal performance standards") whether or not the CDS actually receives funding from a federal Runaway and Homeless Youth Grant.

B. The Vermont Coalition of Runaway and Homeless Youth Programs

1. In Vermont, the Vermont Coalition of Runaway and Homeless Youth Programs (“VCRHYP”) ensures that its constituent members operate within the parameters set by the federal performance standards by periodically monitoring its programs for compliance.
2. To ensure that a CDS remains in conformance with the federal performance standards, a CDS must maintain membership in VCRHYP and fully cooperate with VCRHYP’s monitoring efforts.
3. VCRHYP shall immediately notify the department if a program withdraws or is discharged from VCRHYP. It shall likewise notify the department upon its determination that a member program is materially out of compliance with federal or VCRHYP performance standards.
4. The department shall notify VCRHYP if a CDS fails to renew its designation or if the department revokes or suspends a CDS’s designation pursuant to these regulations.

Family Services Division District Offices

Barre: (802) 479-4260

Bennington: (802) 442-8138

Brattleboro: (802) 257-2888

Burlington: (802) 863-7370

Hartford: (802) 295-8840

Middlebury: (802) 388-4660

Morrisville: (802) 888-4576

Newport: (802) 334-6723

Rutland: (802) 786-5817

Springfield: (802) 289-0648

St. Albans: (802) 527-7741

St. Johnsbury: (802) 748-8374

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