

 VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>241</h1>
Chapter:	Residential Licensing and Special Investigations	
Subject:	Licensing Residential Treatment Programs and Regulatory Interventions	Page 1 of 8
Approved:	Cynthia K. Walcott, Deputy Commissioner	Effective: 2/11/2016
Supersedes:	Family Services Policy 241	Dated: 7/22/1998

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.

Table of Contents

Purpose	1
Table of Contents.....	1
Related Policies	1
Introduction	2
Definitions	2
Policy	2
Application for Licensure	2
Term of License and Licensing Renewal.....	3
Ongoing Review of Licenses	5
Screening Reports of Child Abuse and Neglect in RTPs.....	5
Child Safety Interventions in RTPs	6
Special Considerations for Child Safety Interventions in PREA-Compliant RTPs	6
Substantiating Child Abuse and Neglect in RTPs	7
Regulatory Interventions in RTPs.....	7
Special Considerations for Regulatory Interventions in PREA-Compliant RTPs.....	8
Resolution of Regulatory Interventions in RTPs	8

Related Policies

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 54](#): Investigating Reports of Child Abuse or Neglect in Regulated Facilities

 VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>241</h1>
Chapter:	Residential Licensing and Special Investigations	
Subject:	Licensing Residential Treatment Programs and Regulatory Interventions	Page 2 of 8

Family Services [Policy 56](#): Substantiating Child Abuse and Neglect

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](#)

Introduction

Pursuant to 33 V.S.A. § 306 (b) and 33 V.S.A. § 3501, 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

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. § 3501. (Licensing Regulations for RTPs in Vermont)

Social Worker: For the purposes of this policy, the term ‘social worker’ refers to Residential Licensing and Special Investigations Unit social workers.

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 social worker will be designated to oversee this

 VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>241</h1>
Chapter:	Residential Licensing and Special Investigations	
Subject:	Licensing Residential Treatment Programs and Regulatory Interventions	Page 3 of 8

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 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 social worker determines that the agency is in substantial compliance with the regulations, the social 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 number, 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 social 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 Unit 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.

 VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>241</h1>
Chapter:	Residential Licensing and Special Investigations	
Subject:	Licensing Residential Treatment Programs and Regulatory Interventions	Page 4 of 8

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: parents, Family Services Division staff, Agency of Education staff, and Department of Mental Health staff, and others as appropriate.

Before the re-licensing visit, RLSI will:

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

During the re-licensing visit, RLSI will:

- inspect 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 social worker will prepare a report summarizing their findings and recommendations. The report will:

- assess compliance with each regulation;

 VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>241</h1>
Chapter:	Residential Licensing and Special Investigations	
Subject:	Licensing Residential Treatment Programs and Regulatory Interventions	Page 5 of 8

- 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.

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.

Screening Reports of Child Abuse and Neglect in RTPs

Reports of suspected abuse and neglect of a child or youth placed in an RTP are made to Centralized Intake and Emergency Services through the Child Protection Hotline at **1-800-649-5285** (24 hours a day, 7 days a week).

All reports made to CIES are screened according to [Policy 51](#). 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 social 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 social 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 social 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.

 VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>241</h1>
Chapter:	Residential Licensing and Special Investigations	
Subject:	Licensing Residential Treatment Programs and Regulatory Interventions	Page 6 of 8

Child Safety Interventions in RTPs

RLSI follows [Policy 52](#) when conducting child safety interventions in RTPs. Once a report has been accepted for a child safety intervention, the assessment or investigation must be commenced per [Policy 52](#). The child safety intervention will not be terminated 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

Employees of RTPs are mandated reporters and required to report suspected child abuse/neglect according to [33 V.S.A. § 4913](#). If an employee of an RTP informs RLSI of suspected child abuse/neglect, RLSI shall confirm a report was made to Centralized Intake and Emergency Services.

When RLSI receives information that suspected child abuse/neglect occurred in an RTP, RLSI shall notify the program administrator where the suspected abuse/neglect occurred within 72 hours. Notification will occur by phone or email and RLSI will document the notification in FSDNet (28 CFR 115.363).

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 social worker to notify the child’s attorney of the incident or allegation (28 CFR 115.361(e)).

RLSI social 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 social workers have completed the required specialized training.

RLSI social workers collaborate with law enforcement in the gathering and preserving

 VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>241</h1>
Chapter:	Residential Licensing and Special Investigations	
Subject:	Licensing Residential Treatment Programs and Regulatory Interventions	Page 7 of 8

direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data. RLSI social 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)).

PREA-compliant RTPs are required to conduct sexual abuse incident reviews at the conclusion of every sexual abuse investigation. RLSI social 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.

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 administrator or designee.

A regulatory intervention will consist of:

 VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>241</h1>
Chapter:	Residential Licensing and Special Investigations	
Subject:	Licensing Residential Treatment Programs and Regulatory Interventions	Page 8 of 8

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

The RLSI social worker assigned to the intervention will notify appropriate district staff (child/youth’s social 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

If the RLSI social 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 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.