

NOTICE OF PUBLIC HEARING

Intent to Adopt Regulations

LCB File Nos. R051-18, R095-18 and R122-18

NOTICE IS HEREBY GIVEN that the Division of Child & Family Services will hold a public hearing to consider adoption of the amendments to chapters of Nevada Administrative Code (NAC): Child Welfare NAC 424 in LCB File No. R051-18; Juvenile Justice NAC 62B in LCB File No. R095-18 and Children's Mental Health Services NAC 433B in R122-18.

The Division of Child & Family Services public hearing will be conducted at the Legislative Counsel Bureau in Carson City and via video conference at the Grant Sawyer Building in Las Vegas beginning at 9:00 AM on Monday, September 17, 2018 at the following locations:

Legislative Counsel Building
401 South Carson Street, Rm. 3137
Carson City, NV 89701

Grant Sawyer Building
555 E. Washington Ave., #5100
Las Vegas, NV 89107

The public hearing will be conducted in accordance with NRS 241.020, Nevada's Open Meeting Law.

AGENDA

1. Public hearing presentation on proposed amendments to NAC Chapters 424 LCB File No. R051-18, 62B LCB File No. R095-18 and 433B LCB File No. R122-18.
2. Public Comment on proposed amendments to Chapters 424 LCB File No. R051-18, 62B LCB File No. R095-18 and 433B LCB File No. R122-18.
3. **For possible action:** Consideration and adoption of proposed amendments to NAC 424 LCB File No. R051-18.
4. **For possible action:** Consideration and adoption of proposed amendments to NAC 62B LCB File No. R095-18.
5. **For possible action:** Consideration and adoption of proposed amendments to NAC 433B LCB File No. R122-18.
6. Public Comment.

The proposed changes will revise Chapters 424, 62B and 433B of the Nevada Administrative Code and are being proposed in accordance with Child Welfare: §§1,2 and 4-12, NRS 424.020; §3, NRS 424.020 and 432.548; §13, NRS 424.093 and 424.094; §14, NRS 424.020 and 424.0365; §15, NRS 424.093, 424.094 and 432.548. Juvenile Justice: §§1-5, NRS 62B.212; §§6 and 7, NRS 62B.250. Children's Mental Health Services: §§1-3, NRS 433B.325.

1. The regulation changes needed to comply with Assembly Bill No. 99 are the following:
 - Child Welfare 424 in LCB File No R-051-18: Clearly establish training requirements to work with lesbian, gay, bisexual, transgender and questioning children, consider a gender identity and expression when placing a child in out of home placements and providing a child a written summary of their rights.
 - Juvenile Justice 62B in LCB File No. R095-18: Establish factors for a juvenile court to consider before committing a child to certain public or private institutions or agencies; establishing protocols that such an institution or agency is required to follow under certain circumstances; and providing other matters properly relating thereto.
 - Children's Mental Health Services 433B in LCB File No. R-122-18: Clearly establish factors for a court to consider before committing a child to certain facilities; requiring certain facilities to adopt a policy to ensure that each child committed to the facility by a court order is treated in accordance with the gender identity or expression of the child; and providing other matters properly relating thereto.
2. The full text of the proposed regulation will be available for viewing at the locations listed under Agenda Posting Locations, Public Libraries, Pages 5-6.
3. The estimated economic effect of the regulation on the small business which it is to regulation does not affect any business.
 - a. There are neither adverse nor beneficial effects on businesses; and
 - b. There are neither immediate nor long-term effects on businesses.
4. The estimated cost to the agency for enforcement of the proposed regulation is minimal and includes only the amount of staff time it takes to complete training.
5. The proposed regulation does not overlap any current state statute or regulation.
6. The regulation is not required pursuant to a Federal law.
7. The regulation does not include provisions that are more stringent than any Federal regulation governing the training of juvenile facility staff.
8. The regulation does not establish a new fee or increases an existing fee.
9. Persons wishing to comment upon the proposed actions of Division of Child and Family Services may appear at the scheduled Public Hearing or may address their comments, data, views, or arguments, in written form, to the Division of Child and Family Services:
 - a. NAC 424 Child Welfare, Attn: Laurie Jackson, Social Services Chief, 4126 Technology Way, 3rd Floor, Carson City, NV 89706.
 - b. NAC 62B Juvenile Justice, Attn: John Munoz, Deputy Administrator, 5730 Range Road, Las Vegas, NV 89115.
 - c. NAC 433B Children's Mental Health Services, Attn: Cara Paoli, Deputy Administrator, 2655 Enterprise Road, Reno, NV 89512.

- d. Written submissions must be received by the Division of Child and Family Services on or before September 10, 2018 by 5:00pm. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division of Child and Family Services may proceed immediately to act upon any written submissions.
- e. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

10. The proposed regulations do not overlap or duplicate any other Nevada state regulations.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence in excess of two typed, 8-1/2" x 11" pages must submit the material to the Administrator of the Division, Ross Armstrong, to be received no later than Friday, September 10, 2018, at the following address:

Division of Child & Family Services
Attention: Ross Armstrong, Administrator
Re: AB99, NAC 424, 62B and 433B
4126 Technology Way, 3rd Floor
Carson City, NV 89706

Written comments, testimony, or documentary evidence in excess of two typed pages will not be accepted at the time of the hearing. The purpose of this requirement is to allow the Administrator adequate time to review the documents.

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify BettyJo Heaton, in writing, no later than five (5) working days before the hearing via email at: bheaton@dcfs.nv.gov or by mailing request to:

Division of Child & Family Services
Attention: BettyJo Heaton
4126 Technology Way, 3rd Floor
Carson City, NV 89706

AGENDA POSTING LOCATIONS

Nevada Division of Child & Family Services – 4126 Technology Way, 3rd Floor, Carson City, NV 89706

DCFS Elko District Office, 1010 Ruby Vista Drive, Suite 101, Elko, NV 89801
Washoe County Human Services Agency, P.O. Box 11130, Reno, NV 89520
DCFS Las Vegas Office, 6171 W. Charleston Blvd., Bldg. #8
Clark County Dept of Family Services, 121 So. Martin Luther King Blvd., Las Vegas, NV 89106
DCFS Ely Field Office, 740 Park Avenue, Ely, NV 89301
DCFS Fernley Field Office, 55 North Center Street, #3, Fernley, NV 89408
DCFS Yerington Field Office, 205 West Goldfield Ave., Yerington, NV 89447
DCFS Fallon District Office, 1735 Kaiser Street, Fallon, NV 89406
DCFS Pahrump District Office, 1780 E. Basin Ave., #2, Pahrump, NV 89060
DCFS Winnemucca Field Office, 476 W. Haskell Street, Box 7, Winnemucca, NV 89445
DCFS Carson District Office, 2533 N. Carson Street, Carson City, NV 89706
Northern Nevada Child & Adolescent Services, 2655 Enterprise Rd., Reno, NV 89512

On the Internet at the Nevada Division of Child & Family Services website:

<http://www.dcfs.nv.gov>

On the internet at the Legislative Counsel Bureau website: <http://leg.state.nv.us>

A copy of the notice and proposed regulations are on file for inspection and/or may be copied at the following locations during normal business hours:

Division of Child & Family Services
4126 Technology Way, 3rd Floor
Carson City, NV 89706

Nevada State Library
100 Stewart Street
Carson City, NV 89701

A copy of the regulations and small business impact statement can be found on-line by going to:

<http://www.dcfs.nv.gov>

A copy of the public hearing notice can also be found at Nevada Legislature's web page:

<https://www.leg.state.nv.us/App/Notice/A/>

Copies may be obtained in person from DCFS, BettyJo Heaton @ 4126 Technology Way, 1st Floor, Carson City, NV 89706, by mail, or by calling the Division of Child & Family Services at (775) 684-7294 in Carson City. Copies may also be obtained from any of the public libraries listed below:

Carson City Library
900 North Roop Street
Carson City, NV 89702

Churchill County Library
553 South Main Street
Fallon, NV 89406

Clark County District Library
1401 East Flamingo Road
Las Vegas, NV 89119

Douglas County Library
1625 Library Lane
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Esmeralda County Library
Corner of Crook and 4th Street
Goldfield, NV 89013-0484

Eureka Branch Library
80 South Monroe Street
Eureka, NV 89316-0283

Henderson District Public Library
280 South Green Valley Parkway
Henderson, NV 89012

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445-3095

Lander County Library
625 South Broad Street
Battle Mountain, NV 89820-0141

Lincoln County Library
93 Maine Street
Pioche, NV 89043-0330

Lyon County Library
20 Nevin Way
Yerington, NV 89447-2399

Mineral County Library
110 1st Street
Hawthorne, NV 89415-1390

Pahrump Library District
701 East Street
Pahrump, NV 89041-0578

Pershing County Library
1125 Central Avenue
Lovelock, NV 89419-0781

Storey County Library
95 South R Street
Virginia City, NV 89440-0014

Tonopah Public Library
167 Central Street
Tonopah, NV 89049-0449

Washoe County Library
301 South Center Street
Reno, NV 89505-2151

White Pine County Library
950 Campton Street
Ely, NV 89301-1965

Las Vegas Library
833 Las Vegas Boulevard North
Las Vegas, NV 89101

Per NRS 233B.064(2), upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

**PROPOSED REGULATION OF THE DIVISION OF CHILD AND
FAMILY SERVICES OF THE DEPARTMENT OF
HEALTH AND HUMAN SERVICES**

LCB File No. R051-18

July 17, 2018

EXPLANATION – Matter in ~~italics~~ is new, matter in brackets ~~joinitted inatcitat~~ is material to be omitted.

AUTHORITY: §§1, 2 and 4-12, NRS 424.020; §3, NRS 424.020 and 432.548; §13, NRS 424.093 and 424.094; §14, NRS 424.020 and 424.0365; §15, NRS 424.093, 424.094 and 432.548.

A REGULATION relating to child welfare; establishing a process for filing and resolving a grievance concerning a foster care agency or a foster home; revising the training requirements for licensees who operate a foster home and for the direct care staff of specialized foster homes and foster care agencies; revising provisions governing the licensing and operation of a foster home; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Child and Family Services of the Department of Health and Human Services to establish procedures and requirements for the licensure of family foster homes, specialized foster homes, independent living foster homes and group foster homes. (NRS 424.020) Existing law also requires the Division to prescribe by regulation a procedure for filing and resolving a grievance concerning certain entities, including, without limitation, foster care agencies and certain foster homes. (NRS 432.548) **Section 3** of this regulation establishes the procedure for filing and resolving a grievance concerning a foster care agency or a foster home.

Existing law requires a provider of foster care to ensure that each foster child who is placed in the foster home is treated in all respects in accordance with the child's gender identity or expression. (NRS 424.0445) **Section 2** of this regulation defines "gender identity or expression" to mean a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth. (NRS 424.0145)

Section 6 of this regulation requires a licensee to apply to the licensing authority for a change in its license to operate a foster home if there are changes in the gender identity or expression of children in foster care authorized to be placed in the foster home pursuant to the license. A licensing authority is defined to mean: (1) in a county whose population is 100,000 or more, the agency which provides child welfare services, as defined in NRS 432B.030; and (2) in a county whose population is less than 100,000, the Division. (NAC 424.058)

Section 7 of this regulation requires a licensee that operates a foster home to receive within 90 days after initial licensure and annually thereafter, training concerning working with lesbian, gay, bisexual, transgender and questioning children.

Section 8 of this regulation authorizes the licensing authority to exempt a child whose gender identity or expression differs from the child's assigned sex at birth from the prohibition on children of the opposite sex who are 5 years of age or more sharing a room under certain circumstances.

Section 9 of this regulation requires a person licensed by the licensing authority to operate a family foster home, specialized foster home, independent living foster home or group foster home to ensure that, with limited exceptions, the gender identity or expression or sexual orientation of a foster child in the care of that foster home is not disclosed without the consent of the foster child.

Section 10 of this regulation adds certain duties to foster parents and direct care staff regarding the care and treatment of children, including, without limitation, lesbian, gay, bisexual, transgender and questioning children.

Section 11 of this regulation provides that a child's gender identity or expression must be respected with regard to the child's choice of clothing and personal possessions.

Existing regulations require each specialized foster home to provide to the licensing authority, with its initial application for a license, a written statement of the programs offered by the specialized foster home, including, without limitation, the models used for treatment, the services it offers and the scope of its programs. (NAC 424.626) **Section 12** of this regulation requires such a statement to include a description of the characteristics of the children to be placed in the specialized foster home, including, without limitation, the gender identity or expression of the children to be placed in the specialized foster home.

Section 13 of this regulation requires the application for a license to operate a foster care agency to be accompanied by a description of the characteristics of the children to be served by the foster care agency, including, without limitation, the gender identity or expression of the children to be served by the foster care agency.

Existing regulations require each member of the direct care staff of a specialized foster home and a foster care agency to complete certain statutorily required training within 30 days

after beginning his or her employment and annually thereafter. (NAC 424.712) **Section 14** of this regulation revises this provision, in accordance with statute, to: (1) include instruction on working with lesbian, gay, bisexual, transgender and questioning children; and (2) be completed within 90 days rather than 30 days after the member of the direct care staff begins his or her employment and annually thereafter.

Sections 4 and 5 of this regulation make conforming changes.

Section 1. Chapter 424 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *“Gender identity or expression” has the meaning ascribed to it in NRS 424.0145.*

Sec. 3. 1. *A child or, if applicable, the parent or guardian of a child may file a grievance concerning a foster care agency or a foster home by filing a form, approved by the Division, with:*

(a) The Local Government Ombudsman if the foster care agency or foster home provides care for children in a county whose population is 700,000 or more; or

(b) The State Systems Advocate if the foster care agency or foster home provides care for children in a county whose population is less than 700,000.

2. The Local Government Ombudsman or the State Systems Advocate, as applicable, shall evaluate the grievance and, if the Local Government Ombudsman or the State Systems Advocate, as applicable, determines that the grievance is not frivolous, he or she shall investigate the grievance and impose remedies.

3. The Local Government Ombudsman or the State Systems Advocate, as applicable, shall, at a minimum:

(a) Require the foster care agency or a foster home to make changes to address the grievance; or

(b) Notify a regulatory or law enforcement agency with jurisdiction over the foster care agency or a foster home of the grievance.

4. The form for filing a grievance may be obtained from:

(a) The Internet website of the Division;

(b) Any court in this State;

(c) The local juvenile probation department; and

(d) Any office of the court appointed special advocate.

5. The Division will ensure that each entity listed in paragraphs (b), (c) or (d) of subsection 4 receives a copy of the form for filing a grievance and any updates to that form.

6. As used in this section:

(a) "Local Government Ombudsman" means the person responsible for resolving complaints regarding the protection of children who are receiving services from the agency of the county which provides or arranges for necessary child welfare services.

(b) "State Systems Advocate" means the person responsible for resolving complaints regarding the protection of children who are receiving services from:

(1) In a county whose population is less than 100,000, the Division; or

(2) In a county whose population is 100,000 or more but less than 700,000, from the agency of the county which provides or arranges for necessary child welfare services.

Sec. 4. NAC 424.005 is hereby amended to read as follows:

424.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 424.010 to 424.083, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

Sec. 5. NAC 424.165 is hereby amended to read as follows:

424.165 Before the licensing authority grants an initial license to operate a foster home, the following minimum requirements must be met:

1. A satisfactory report about the applicant from a local law enforcement agency and submittal of fingerprints pursuant to NRS 424.033;
2. A satisfactory report from the Statewide Central Registry established pursuant to NRS 432.100 on all applicants and members of the household who are 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594;
3. At least one visit by a licensing authority representative to the foster home to determine that the home is safe;
4. Receipt of a signed foster home application form;
5. Documentation of contact, either verbal or written, with five satisfactory references;
6. Satisfactory completion of the training specified in *subsections 1, 2 and 5 of* NAC 424.270; and
7. Records concerning employees and residents must be maintained pursuant to NRS 424.034.

Sec. 6. NAC 424.175 is hereby amended to read as follows:

424.175 1. A licensee shall notify a licensing authority representative and apply to the licensing authority for a change in its license to operate a foster home if:

(a) There are changes in the ~~proposed~~] :

(1) *Proposed* programs ~~1, the range~~ ;

(2) *Range* of ages or sex of the children in foster care ;

(3) *Gender identity or expression of the children in foster care*; or ~~the total~~

(4) *Total* number of children in foster care;

(b) A child who has been referred to the juvenile justice system of this State but is not under the jurisdiction of the agency which provides child welfare services is proposed to be placed in the foster home; or

(c) A child is proposed to be placed in the foster home by a person or organization that is not a governmental entity.

2. A request for a change required by subsection 1 must be in writing and may be submitted with an application for the renewal of the license or at any time during the period the license is effective. If the change is approved, after the licensing authority has evaluated the request to determine that the relevant requirements have been met, a revised license must be issued. If a request for a change in the license is denied, the licensee may submit a request for a review of the denial to the licensing authority representative. The licensing authority representative shall review the denial but the denial is not subject to appeal.

3. A licensing authority representative may revise the contents of a license and shall provide the licensee with a written discussion of any proposed changes. The licensee may submit a request to the licensing authority representative for a review of the proposed changes. The licensing authority representative shall review the proposed changes but the changes are not subject to appeal.

4. The licensing authority representative shall conduct any review requested pursuant to this section within 30 days after the licensing authority representative receives the request and shall inform the licensee in writing of his or her decision regarding the review.

Sec. 7. NAC 424.270 is hereby amended to read as follows:

424.270 1. Except as otherwise provided in this section, applicants for a license to operate a foster home must attend at least 8 hours of training in foster parenting provided or approved by the agency which provides child welfare services. If the home has a pool, hot tub or other freestanding body of water, the applicants must obtain information on water safety and the risk of drowning and must also complete training in pool safety and receive certification in cardiopulmonary resuscitation.

2. Except as otherwise provided in this section, foster parents shall attend at least 4 hours annually of training in foster parenting which is provided or approved by the agency which provides child welfare services.

3. The annual training or portions of the annual training required by subsection 2 may for good cause, as determined by the agency which provides child welfare services, be obtained from another agency that places foster children, as a substitute for the training provided by the agency which provides child welfare services, if at least one foster parent participates in the training and the training has been preapproved by the agency which provides child welfare services.

4. A family foster home which is licensed to provide foster care for a specific, licensed child-placing agency may receive the training required by subsections 1 and 2 through that agency.

5. In addition to the training required by subsections 1 and 2, applicants for a license to operate a foster home must receive training in how to use and apply the reasonable and prudent parent standard to provide normalcy for foster children when making decisions authorized by NAC 424.573. The training required by this subsection must be provided or approved by the agency which provides child welfare services.

6. *In addition to the training required by subsections 1, 2 and 5, a licensee that operates a foster home must receive, not later than 90 days after initial licensure and annually thereafter, training concerning working with lesbian, gay, bisexual, transgender and questioning children.*

7. The requirements of this section are not applicable to any person who is subject to the requirements of NAC 424.712 and 424.714 and completes the training or continuing education required by those sections.

Sec. 8. NAC 424.375 is hereby amended to read as follows:

424.375 1. Foster children must sleep in a room, designated as a bedroom, which must ensure privacy. Closets, partitioned rooms and similar areas are unacceptable areas for children to sleep. No child may be allowed to sleep in a detached building, unfinished attic or basement, stair hall or room commonly used for other than bedroom purposes.

2. Rooms used by children for sleeping must have adequate floor space between beds to allow foster children and other persons to easily access beds and exits.

3. Dormitories housing more than six children are not allowed. Single rooms must be provided for those children whose behavior or development makes it desirable for them to have a single room.

4. Except as otherwise provided in ~~this subsection,~~ **subsection 5**, children of the opposite sex who are 5 years of age or more must not share a bedroom, and children who are more than 12 months of age must not sleep in the same room with an adult.

~~5.~~ If a written recommendation by a provider of health care, psychologist, clinical social worker, clinical professional counselor or a child and family team is provided to the licensing authority, the licensing authority may authorize children who are 5 years of age or more to share a room or a child who is more than 12 months of age to sleep in the same room with an adult. A child of the foster parents who is 18, 19 or 20 years of age may share a room with a foster child of the same sex and similar age if this arrangement is appropriate based upon the circumstances and needs of each child. A child in foster care who is the parent of a child in the same placement may share a room with that child.

[5] The licensing authority may authorize a child whose gender identity or expression differs from the child's assigned sex at birth to share a room with a child of the opposite sex if the licensing authority determines that this arrangement is safe and in the best interests of each child. In making this determination, the licensing authority must consider:

- (a) The expressed preferences of each child; and***
- (b) The recommendations of the child and family team.***

6. The foster parents' bedroom must be located on the same floor as the bedroom of any child who is less than 5 years of age.

~~6.]~~ **7.** Except as otherwise provided in this subsection, each child must be provided with his or her own bed, which must be at least 27 inches wide and of a length which is adequate for the

child's height, and the bottom of which is elevated off the floor. Siblings of the same sex may share a double bed.

~~{7.}~~ **8.** Each bed must have a comfortable and supportive mattress in good condition, a pillow, sheets and coverings and, as needed, waterproofing sufficient for the child's comfort.

~~{8.}~~ **9.** Bunk beds with more than two bunks are prohibited. If bunk beds are used, the upper bunk must have a guardrail. Upper bunks must not be used by children who are less than 6 years of age.

~~{9.}~~ **10.** A complete change of bed linens must be supplied at least once a week or more often if necessary.

[10] **11.** Each child must have access to a closet, locker or dresser for clothing and personal belongings in his or her sleeping area.

~~{11.}~~ **12.** Bedroom furnishings must not be set up in such a manner as to obstruct a clear exit from a door or window.

[12] **13.** Each crib must meet the standards prescribed in 16 C.F.R. Part 1219 or 1220, as applicable, and be equipped with a firm crib mattress that properly fits the crib. An infant must always be placed on his or her back to sleep and must not be:

(a) Allowed to sleep on a soft or semisoft surface, including, without limitation, a sofa, waterbed, large pillow or bean bag.

(b) Placed in a crib containing any loose item, including, without limitation, a comforter, quilt, blanket, stuffed animal, crib bumper, wedge, pillow or other loose bedding.

~~{13.}~~ **14.** As used in this section, "provider of health care" means a physician, advanced practice registered nurse, physician assistant or homeopathic physician.

Sec. 9. NAC 424.485 is hereby amended to read as follows:

424.485 1. A foster parent shall maintain such confidentiality as is required by state law regarding information relating to the foster children in his or her care and their families. The licensing authority may revoke or suspend the license to operate a foster home of a foster parent who violates this subsection.

2. The licensee shall ensure that ~~the~~:

(a) The foster children in the care of that foster home are not identified by name or by clear description, or photographed for any publication or other printed, broadcast or social media or any Internet website without the permission of the licensing authority ~~H~~; and

(b) Except as otherwise provided in subsection 3 or as otherwise required by state or federal law, the gender identity or expression or sexual orientation of a foster child in the care of that foster home is not disclosed without the consent of the foster child.

3. The gender identity or expression or sexual orientation of a foster child may be disclosed in limited circumstances, as recommended by a mental health professional, without the consent of the foster child if the licensing authority has determined, based on the recommendation of the mental health professional that such a disclosure is in the best interest of the foster child and the disclosure is limited to the circumstances recommended by the mental health professional.

4. As used in this section, "mental health professional" means a person licensed in the State of Nevada as a psychiatrist, psychologist, marriage and family therapist, clinical professional counselor or clinical social worker.

Sec. 10. NAC 424.500 is hereby amended to read as follows:

424.500 1. A foster home shall:

- (a) Provide a safe, stable and nurturing environment.
- (b) Encourage a child's autonomy, respect a child's privacy and consider a child's preferences or choices when providing care, supervision, guidance or instruction.
- (c) Provide care that is respectful toward the beliefs, interpersonal styles, attitudes, behaviors and culture of a child and his or her family.
- (d) Employ direct care staff who are knowledgeable about and understanding of children who have greater physical or emotional needs.
- (e) Provide effective supervision and employ staff who possess the vitality, interest and understanding to meet the needs of a child in the care of the foster home. Prospective staff must be selected based upon their ability to care for a foster child with consideration of the ages and needs of any other children in the care of the foster home.
- (f) Employ staff who have the ability to work with and guide a child within a group setting or individually. Staff must possess the physical and emotional health to carry out the responsibilities of caring for a child.
- (g) Work cooperatively with the agency which provides child welfare services, teachers and other professionals to meet the needs of a child.
- (h) Accurately observe and record each child's progress in the foster home.
- (i) Provide care, training and guidance to the children in its care and assist those children in learning to control inappropriate patterns of behavior.

(j) Cooperate with the agency which provides child welfare services to ensure that children placed in the foster home receive quality, nurturing parenting and are able to experience normalcy in their daily lives.

(k) Ensure that all decisions concerning children are made using the reasonable and prudent parent standard in the manner prescribed in NAC 424.573 and in accordance with the requirements of this chapter and chapter 424 of NRS.

(l) Comply with all requirements of NRS 432.500 to 432.550, inclusive.

2. The foster home shall plan activities that provide for and stimulate social relationships, creative activities and hobbies. Children must be afforded an opportunity to participate in neighborhood, school and other community groups appropriate to the age and needs of each child, which may include, without limitation:

- (a) Activities that promote leisure or play;
- (b) Activities that promote self-expression and communication;
- (c) Appropriate physical exercise to encourage development of gross and fine motor skills;
- (d) Activities to encourage mental or intellectual stimulation and development;
- (e) Activities appropriate to the child's ethnicity or culture;
- (f) Indoor and outdoor recreational activities;
- (g) Activities that promote appropriate socialization and relationships with others; and
- (h) Activities that promote normalcy for the child.

3. The foster parent must be nonjudgmental regarding the child's parents and the family of the child.

4. The foster parent shall:

(a) Assist the agency which provides child welfare services with transporting the child to necessary appointments, meetings or other required travel.

(b) Attend any appointment related to the health of the child with the child unless other arrangements are approved by the caseworker of the child.

5. The foster parent shall assist the agency which provides child welfare services to ensure that the child is provided with ongoing visitation and contact with siblings or other family members, if requested by the caseworker of the child.

6. The foster home shall see that each child observes curfew and all other requirements specified by law.

7. Smoking is prohibited in a foster home and in the direct presence of foster children.

8. *The foster parent and direct care staff shall treat all children, including, without limitation, lesbian, gay, bisexual, transgender and questioning children in the same respectful and nonjudgmental manner to ensure that all children feel safe and welcome in the foster home.*

9. *The foster parent and direct care staff shall ensure that the culture within the foster home maintains the dignity of every foster child and that discrimination or threatened or actual harassment of a foster child is responded to promptly and appropriately.*

10. *The foster parent and direct care staff shall reinforce respect regarding differences among children, encourage self-esteem building and assist foster children in overcoming any stigma associated with such differences.*

11. *Except as otherwise provided in NAC 424.485, the foster parent and direct care staff shall maintain the confidentiality of a foster child in the care of that foster home concerning*

the gender identity or expression or sexual orientation of the foster child and shall not disclose the gender identity or expression or sexual orientation of the foster child without the consent of the foster child.

12. The foster parent and direct care staff shall allow and respect a foster child's gender identity or expression with regard to the foster child's choice of clothing, hairstyle, makeup and jewelry or other accessories as are appropriate for the foster child's age and development.

13. The foster parent and direct care staff shall address a foster child by the name and pronoun preferred by the foster child, whether or not the name and pronoun conform to the foster child's assigned sex at birth and honor the foster child's wishes with regard to the times and places in which the foster child wishes to be addressed by that preferred name and pronoun or in another manner.

Sec. 11. NAC 424.585 is hereby amended to read as follows:

424.585 1. Each child must have his or her own clothing and personal possessions as well as storage space for them. Children must not be required to share personal clothing items with other children. *The gender identity or expression of each child must be respected with regard to the child's choice of clothing and personal possessions.*

2. Clothing must be of the correct size and type, and appropriate to climatic conditions, and must be kept clean and in good repair. Clothing allowances issued or authorizations to purchase clothing must be used for the child intended and only for clothing items. The receipts for the purchase of such clothing items must be maintained by the foster home.

3. Each child's clothes and personal possessions are the property of the child and must be inventoried, on a form provided by the agency which provides child welfare services, at the time

of placement and discharge from a foster home and sent with the child when he or she leaves the placement. If a child is emancipated or transitioned into another placement, the child must be given and allowed to take with him or her all clothing and other personal possessions that the child acquired while residing at a foster home. As used in this subsection, “personal possessions” includes, without limitation, scrapbooks, photographs and gifts.

Sec. 12. NAC 424.626 is hereby amended to read as follows:

424.626 1. Each specialized foster home must provide to the licensing authority, with its initial application for a license, a written statement of the programs offered by the specialized foster home, including, without limitation, the models used for treatment, the services it offers and the scope of its programs.

2. The statement required by subsection 1 must also include:

(a) A statement of purpose and the philosophy, goals and objectives of the specialized foster home;

(b) A description of the characteristics of the children to be placed in the specialized foster home, including, without limitation, the range of ages, gender, *gender identity or expression*, number of children and types and severity of problems of the children to be treated;

(c) The length of time by which a child is expected to complete a program of treatment and any limitations on the length of time that a child may remain in the specialized foster home;

(d) A description of the structured therapeutic environment and services that will be offered by the specialized foster home;

(e) A description of the duties and responsibilities of the staff of the specialized foster home;

(f) A statement concerning staffing patterns and plans to meet requirements for the supervision of children placed in the specialized foster home, including, without limitation, the number of staff on duty and the availability of additional staff;

(g) A description of the educational requirements, qualifications, level of training and experience required for the staff of the specialized foster home;

(h) The manner in which the specialized foster home will meet the medical, educational, spiritual, vocational and recreational needs of a child placed in the specialized foster home;

(i) Activities to ensure the delivery of quality services to a child placed in the specialized foster home and his or her family;

(j) Provisions for respite for foster parents;

(k) A plan for the safety of a child placed in the specialized foster home, which must include, without limitation, rules, structures and procedures for the supervision of the child which are designed to reduce the likelihood that the child will run away or engage in other harmful behavior; and

(l) The methods to be used to identify and reduce risks that may jeopardize the health, safety or well-being of a child placed in the specialized foster home and of its staff.

3. The statement required by subsection 1 must also include a description of the policies and procedures of the specialized foster home as they relate to:

(a) The admission and discharge of a child into and from the specialized foster home;

(b) The establishment and maintenance of a professional relationship and regular contact between the staff of the specialized foster home and the family of each child placed in the specialized foster home;

(c) The sharing of information about a child placed in the specialized foster home with the child's advocate and the agency which provides child welfare services or other agency or person who placed the child in the specialized foster home;

(d) The management of behavior using a standardized curriculum that targets the emotional and behavioral issues of children in specialized foster care;

(e) The provision of culturally responsive services to a child placed in the specialized foster home;

(f) The transportation of children placed in the specialized foster home;

(g) The methods for disciplining children placed in the specialized foster home, including, without limitation, the types of discipline that must not be used to punish a child;

(h) Training in the administration and monitoring of prescription and nonprescription medication to ensure the safe management and administration of medication;

(i) The privacy and confidentiality of a child placed in the specialized foster home and his or her family;

(j) Suicide awareness and prevention;

(k) The screening of and responses to crises and emergencies, including a crisis or emergency involving a missing child, a child who has run away from the specialized foster home, an acute psychiatric episode, suicidal ideation or attempted suicide, or the injury or illness of a child requiring hospitalization;

(l) The seclusion and restraint of a child placed in the specialized foster home; and

(m) Methods for receiving, resolving and documenting disputes or complaints involving a child placed in the specialized foster home or the family of such a child.

Sec. 13. NAC 424.646 is hereby amended to read as follows:

424.646 In addition to complying with the requirements of NAC 424.642 and 424.644, the application for a license to operate a foster care agency must also be accompanied by:

1. A list of each foster home with which the foster care agency has entered into a contract and the contact information for each such foster home, including, without limitation, the name, telephone number, address and electronic mail address of each foster home;
2. A list of each member of the staff of the foster care agency, including, without limitation, the name, title, education and experience of each member of the staff;
3. A description of the characteristics of the children to be served by the foster care agency, including, without limitation, the range of ages, gender, *gender identity or expression*, number of children and types and severity of problems of any children that require treatment;
4. A description of the duties and responsibilities of the staff of the foster care agency;
5. A written statement that describes the programs and services to be offered by each foster home with which the foster care agency has entered into a contract, including, without limitation, a statement of purpose and the philosophy, goals and objectives of each such foster home;
6. A copy of the foster care agency's written policies, procedures and practices concerning:
 - (a) Placement of a child in a foster home and removal of a child from a foster home;
 - (b) Required training for the staff of the foster care agency pursuant to NRS 424.135, including, without limitation, training concerning the applicable state and federal constitutional and statutory rights of a child placed in a foster home;

(c) The typical length of time by which a child who is placed in a foster home is expected to complete a program of treatment, if any, and any limitations on the length of time that such a child is allowed to remain in a foster home;

(d) Specialized programs, services and behavioral interventions provided by the foster care agency;

(e) Any culturally responsive programs and services available to a child placed in a foster home by the foster care agency;

(f) The manner in which a foster home with which the foster care agency has entered into a contract will meet the medical, educational, spiritual, vocational and recreational needs of a child placed in the foster home;

(g) A plan for the safety of a child placed in a foster home by the foster care agency, which must include, without limitation, rules, structures and procedures for the supervision of the child which are designed to reduce the likelihood that the child will run away or engage in other harmful behavior;

(h) Discipline of a child placed in a foster home by the foster care agency, including, without limitation, the types of discipline which are not allowed to be used on such a child;

(i) Strategies for behavior management of a child placed in a foster home by the foster care agency;

(j) The use of force or restraint on a child placed in a foster home by the foster care agency;

(k) The recognition of suicidal behaviors and methods for preventing the suicide of a child placed in a foster home by the foster care agency;

(l) The administration and monitoring of medication by a member of the direct care staff of a foster home with which the foster care agency has entered into a contract and any educational requirements relating thereto;

(m) Provisions for respite for foster parents; and

(n) The abuse of controlled substances by the staff of the foster care agency or a foster home with which the foster care agency has entered into a contract; and

7. If the applicant is or has been licensed to provide care for children in another state within the 10 years immediately preceding the date of the application:

(a) A copy of each current or expired license;

(b) Contact information for the entity that issued the license; and

(c) Verification from the entity that issued the license that no disciplinary action is pending or has been taken against the applicant while licensed.

Sec. 14. NAC 424.712 is hereby amended to read as follows:

424.712 1. ~~Each~~ *Within 90 days after beginning his or her employment and annually thereafter, each* member of the direct care staff of ~~the~~ :

(a) *A specialized foster home* ~~for a foster care agency~~ must complete training which meets the requirements of NRS 424.0365 . ~~twiithin 30 days after beginning his or her employment and annually thereafter.~~

(b) *A foster care agency must, in accordance with NRS 424.135, complete training which meets the requirements of NRS 424.0365 and 424.235.*

✈ Such training must include, without limitation, techniques for managing behavior and information concerning the type of discipline that is recommended and prohibited by NAC 424.525 and 424.530.

2. Each member of the direct care staff of a specialized foster home or a foster care agency must complete not less than 40 hours of training before providing supervision or direct care of a child or beginning any other responsibilities related to the supervision or direct care of children.

3. The training required by subsection 2 must include instruction concerning:

(a) Reporting requirements and information on the manner in which to identify and report child abuse or neglect;

(b) Policies, procedures and practices of the specialized foster home or foster care agency to ensure privacy and confidentiality of information about any child in the specialized foster home or a foster home with which the foster care agency has entered into a contract and the family of such a child;

(c) The relevant laws on the licensing of a specialized foster home or any other type of foster home with which the foster care agency has entered into a contract;

(d) The impact on the caregiver of providing care to a foster child;

(e) The stages of child development and the potential behaviors of a child who has suffered abuse, neglect or trauma, with emphasis on these behaviors during each stage of child development;

(f) Management of symptomatic behaviors associated with various mental health diagnoses;

(g) The manner in which to address the unique needs or issues of children who are accepted by the specialized foster home or a foster home with which the foster care agency has entered

into a contract, if applicable, which may include, without limitation, the manner in which to address issues relating to gender ~~[identification]~~ *identity or expression*, pregnancy, sexual abuse, sexually aggressive behavior, developmental disabilities, the juvenile justice system or complex medical problems;

(h) Appropriate methods for documenting activity within the specialized foster home or a foster home with which the foster care agency has entered into a contract, including, without limitation, progress notes or reports, treatment plans, medication logs and incident reports;

(i) Issues relating to separation, loss and attachment;

(j) Techniques for talking down or defusing a potentially violent situation or crisis; and

(k) The use and application of the reasonable and prudent parent standard to provide normalcy for foster children when making decisions authorized by NAC 424.573. The training required by this paragraph must be provided or approved by the agency which provides child welfare services.

4. In addition to the training required by subsections 1 and 2, each member of the direct care staff of a specialized foster home or a foster care agency must complete training within 90 days after beginning employment concerning:

(a) Additional factors that may impact the life of a child, including, without limitation, child welfare services, juvenile justice and the role of staff in relation to those factors;

(b) Resources available to a child within the educational system and the role of staff in collaborating with and advocating for the child within the educational system;

(c) The importance of establishing permanency for a child;

(d) Identifying and responding to the diversity and cultural background of a child; and

(e) **Working appropriately with families.**

5. Before providing training pursuant to this section, a specialized foster home or a foster home with which a foster care agency has entered into a contract must submit the curriculum for the training to the licensing authority for approval. The training program may be presented using any appropriate format, including, without limitation, treatment-specific training, presentations made by or to a group, external training or training provided by staff in the specialized foster home or a foster home with which the foster care agency has entered into a contract, as applicable.

6. Except as otherwise provided in this subsection, a specialized foster home and a foster care agency shall ensure that any member of their direct care staff who has transferred from another specialized foster home or a foster home with which the foster care agency has entered into a contract completes the training required by this section, except that the member of the direct care staff is not required to complete the training if he or she provides evidence of having previously completed such training within the relevant period. A member of the direct care staff who provides such evidence must receive training on the policies, procedures and practices of the specialized foster home or foster care agency, as applicable.

Sec. 15. NAC 424.686 is hereby repealed.

TEXT OF REPEALED SECTION

424.686 Development of process for filing complaints with agency. (NRS 424.093, 424.094)

1. A foster care agency shall develop a process to allow a child receiving services from the foster care agency, the parent or guardian of the child and any other person representing the child to file a complaint concerning the foster care agency or any foster home with which the foster care agency has entered into a contract. The process for filing a complaint pursuant to this section must be clearly defined and include methods for resolving such a complaint.
2. In addition to providing any information required pursuant to NAC 424.642 to 424.686, inclusive, a foster care agency shall provide to the licensing authority any information requested by the licensing authority.



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Small Business Impact Statement

Proposed Regulations – Foster Homes for Children

(Prepared Pursuant to Nevada Revised Statutes 233B.0608)

Pertaining to

Proposed Amendment to Nevada Administrative Code (NAC) Chapter 424 *Foster Homes for Children* – Licensing Regulations and Standards for Foster Homes pursuant to AB 99

1. A description of the manner in which comment was solicited from affected small businesses, a summary of their responses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

A survey monkey was sent out to all Nevada treatment providers with an attached copy of the proposed language changes to NAC 424. The survey was sent to 48 providers total; 21 of whom opened it (42.9%) and 27 of whom didn't open it (55.1%), 7 providers clicked through (14.3%) and 1 provider opted out. There was only 1 completed survey response that indicated no concerns. The survey consisted of three (3) questions aimed at soliciting information on direct impacts to their business and both adverse or benefits that may be derived from the proposed regulation.

2. The manner in which the analysis was conducted.

A survey monkey was sent to 48 providers to complete the results are provided above and due to only one response all information was compiled for inclusion within this Small Business Impact Statement.

3. The estimated economic effect of the proposed regulation on the small business which it is to regulate including without limitation both adverse and beneficial effects and both direct and indirect effects.

Based upon the survey results there is no perceived direct impact either beneficial or adverse.

4. A description of the methods that the DCFS considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used those methods.

There were no impacts considered to the prospective agencies so no methods were needed to address any impact.

5. The estimated cost to the agency for enforcement of proposed regulations.

It is believed there will be no additional costs incurred for enforcement of the proposed regulations.

6. Total amount the agency which provides child welfare services expects to collect from any fees and the manner in which the money will be used.

The proposed regulations do not implement any additional or increase in fees.

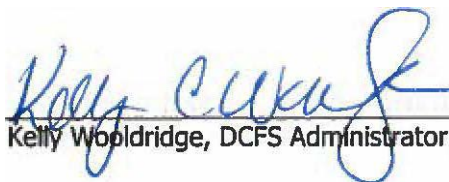
7. An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.

No duplication or stringent provisions were created within the proposed regulations.

8. The reasons for the conclusions of the agency regarding the impact of the proposed regulation on small business.

This legislative proposal intends to have an overall positive impact on public policy in terms of out-of-home placement providers; acute psychiatric hospitals, residential treatment centers, detention facilities, emergency shelters to all types of foster homes; in serving the special and distinct needs of lesbian, gay, bisexual, transgender, questioning children and youth and ensuring the rights of this population. The impact of the proposed regulations on small business will be minimal.

By my signature below, I certify that, to the best of my knowledge, the information contained in this statement was prepared properly and is accurate.


Kelly Wooldridge, DCFS Administrator

3/13/18
Date

**PROPOSED REGULATION OF THE DIVISION OF CHILD AND
FAMILY SERVICES OF THE DEPARTMENT OF
HEALTH AND HUMAN SERVICES**

LCB File No. R095-18

July 17, 2018

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted

AUTHORITY: §§1-5, NRS 62B.212; §§6 and 7, NRS 62B.250.

A REGULATION relating to child welfare; establishing factors for a juvenile court to consider before committing a child to certain public or private institutions or agencies; establishing protocols that such an institution or agency is required to follow under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations that establish: (1) factors for a juvenile court to consider before committing a child to a public or private institution or agency, including, without limitation, a facility for the detention of children; and (2) protocols that such an institution or agency is required to follow when placing a child to ensure that each child who is so committed is placed in a manner that is appropriate for the gender identity or expression of the child. (NRS 62B.212)

Section 3 of this regulation defines the term “gender identity or expression” to mean a gender-related identity, appearance, expression or behavior of a person, regardless of the person’s assigned sex at birth. (NRS 0.034) Existing regulations define the term “institution” to mean, with certain limited exceptions, a facility where a child is held before or after adjudication to be in need of supervision or a delinquent child pursuant to title 5 of NRS. (NAC 62B.050) Existing regulations also define the term “agency” to mean any public or private agency, organization or institution detaining or otherwise having custody or control of a child pursuant to title 5 of NRS. (NAC 62B.020)

Section 4 of this regulation prescribes the factors that a juvenile court is required by statute to consider before committing a child to such an institution or agency. **Section 5** of this

regulation sets forth standards and requires each such institution or agency to establish a procedure that, at a minimum, ensures those standards are met.

Section 2 of this regulation defines the term “abuse or neglect” in the same manner as that term is defined in existing law governing the protection of children from abuse and neglect. (NRS 432B.020) The term is defined in section 2 for the purposes of specific minimum standards set forth in section 5.

Section 7 of this regulation amends existing regulations so that the term “abuse or neglect” as defined in section 2 also applies to the requirement that such an agency ensure its employees who come into direct contact with children receive training in certain subjects, including instruction concerning the proper reporting of abuse or neglect. (NAC 62B.100)

Section 1. Chapter 62B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *“Abuse or neglect” has the meaning ascribed to “abuse or neglect of a child” in NRS 432B.020.*

Sec. 3. *“Gender identity or expression” has the meaning ascribed to it in NRS 0.034.*

Sec. 4. *Pursuant to NRS 62B.212, a juvenile court shall consider the following factors before committing a child to an institution or agency:*

- 1. The gender identity or expression of the child;*
- 2. Whether the institution or agency to which the juvenile court wishes to commit the child has a procedure that complies with section 5 of this regulation; and*
- 3. The ability of the institution or agency to meet the needs of the child.*

Sec. 5. *1. Each institution or agency shall establish a procedure that, at a minimum, ensures:*

(a) A determination of the gender identity or expression or sexual orientation of a child who is held at the institution or in the custody or control of the agency is made in a manner

that is primarily based on self-reporting from the child and is respectful and developmentally appropriate.

(b) Responsiveness to the gender identity or expression of a child who is held at the institution or in the custody or control of the agency with regard to, without limitation:

(1) A determination concerning arrangements for housing, including, without limitation, arrangements for housing that:

(I) Align with the gender identity or expression of the child;

(II) Take into consideration the wishes of the child; and

(III) Take into consideration the health and safety of the child; and

(2) Access to privacy while showering, changing clothes and using the bathroom facility.

(c) A child who is held at the institution or in the custody or control of the agency is free from abuse or neglect and bullying or harassment that is based on the gender identity or expression of the child.

(d) The staff of the institution or agency is instructed on how to detect, respond to and protect a child who is held at the institution or in the custody or control of the agency from any threatened or actual abuse or neglect, bullying or harassment.

(e) The staff of the institution or agency is instructed on how to communicate effectively and professionally with and about a child who is held at the institution or in the custody or control of the agency, regardless of the gender identity or expression or sexual orientation of the child.

(f) Resources necessary to support the gender identity or expression and sexual orientation of all children held at the institution or in the custody or control of the agency are identified and provided to the children.

(g) Except as otherwise provided in this paragraph or as otherwise required by state or federal law, the gender identity or expression or sexual orientation of a child who is held at the institution or in the custody or control of the agency is not disclosed without the consent of the child. The gender identity or expression or sexual orientation of a child who is held at the institution or in the custody or control of the agency may be disclosed in limited circumstances, as recommended by a mental health professional, without the consent of the child if the superintendent of the state facility for the detention of children or the director of juvenile services has determined, based on the recommendation of the mental health professional, that such a disclosure is in the best interest of the child and the disclosure is limited to the circumstances recommended by the mental health professional.

(h) The staff of the institution or agency is prohibited from conducting a physical examination of the genitals or pubic area of a child who is held at the institution or in the custody or control of the agency solely to determine the gender of the child.

(i) A child who is held at the institution or in the custody or control of the agency is not placed in isolation or restrictive settings based on the gender identity or expression or sexual orientation of the child, including, without limitation, the use of such a placement as a means of protecting the child.

2. As used in this section:

(a) “Director of juvenile services” has the meaning ascribed to it in NRS 62A.080.

(b) “Mental health professional” means a person licensed in the State of Nevada as a psychiatrist, psychologist, marriage and family therapist, clinical professional counselor or clinical social worker.

(c) “Superintendent of the state facility for the detention of children” means the person appointed to the position created pursuant to NRS 63.100.

Sec. 6. NAC 62B.010 is hereby amended to read as follows:

62B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 62B.020 to 62B.060, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 7. NAC 62B.100 is hereby amended to read as follows:

62B.100 1. An agency that operates an institution shall ensure that each employee who comes into direct contact with children who are in custody receives training in accordance with NRS 62B.250. The training must consist of instruction concerning:

- (a) The topics listed in subsection 1 of NRS 62B.250;
- (b) Proper reporting of suspected ~~child~~ abuse or neglect;
- (c) Proper reporting and investigation of sexual harassment or sexual misconduct consistent with the requirements set forth in the federal Prison Rape Elimination Act of 2003, 34 U.S.C. §§ 30302 et seq., and 28 C.F.R. §§ 115.5 et seq.;
- (d) The conditions and limitations of the use of corrective room restriction set forth in NRS 62B.215;
- (e) The plan for care of children in the institution during disasters developed pursuant to NRS 62B.220;

(f) Trauma-informed care of children; and

(g) Data collection.

2. In addition to the instruction required by subsection 1, an agency that operates an institution shall ensure that the training required by subsection 1 and NRS 62B.250 for an employee who has supervisory duties over other employees includes instruction concerning:

(a) The provisions of the “Juvenile Detention Facility Standards” adopted by the Juvenile Justice Commission; and

(b) The disproportionate contact of children belonging to a racial or ethnic minority group with the juvenile justice system.

3. As used in this section, “trauma-informed care” means an approach to the delivery of care to a child that takes into account the impact of trauma on the child and emphasizes physical, psychological and emotional safety for both providers and children.

BRIAN SANDOVAL
Governor



RICHARD WHITLEY, MS
Director

KELLY WOOLDRIDGE
Administrator

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**SMALL BUSINESS IMPACT STATEMENT
PURSUANT TO AB 99**

Re: The Division of Child and Family Services Adoption Regulations pertaining to AB 99.

I, Kelly Wooldridge, Administrator of the Department of Health and Human Services, Division of Child and Family Services, do hereby certify that, to the best of my knowledge or belief:

This regulation does not apply to any small businesses as there are no privately run juvenile detention centers or juvenile correctional facilities in the State of Nevada. The facilities regulated are government operated and therefore there is no impact on small business. As the regulation affects both the state and local governments, the agency did reach out to the Nevada Association of Juvenile Justice Administrators (NAJJA), the Governor's Juvenile Justice Oversight Commission, and the Supreme Court's Commission on Juvenile Justice Reform at each step of the process to keep them informed and aware of potential changes to policy and practice within juvenile facility due to this regulation.

If any additional items are needed to submit these rules to the Legislative Commission, please do not hesitate to contact Deputy Administrator John Munoz at (702) 688-4747.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kelly Wooldridge", is written over the printed name and title.

Kelly Wooldridge
Administrator

**PROPOSED REGULATION OF THE
DIVISION OF CHILD AND FAMILY SERVICES OF
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB File No. R122-18

August 6, 2018

EXPLANATION – Matter in *italics* is new; matter in brackets [omitted material] is material to be omitted

AUTHORITY: §§1-3, NRS 433B.325.

A REGULATION relating to mental health; establishing factors for a court to consider before committing a child to certain facilities; requiring certain facilities to adopt a policy to ensure that each child committed to the facility by a court order is treated in accordance with the gender identity or expression of the child; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations establishing factors for a court to consider before committing a child with emotional disturbance to a treatment facility or other facility of the Division to ensure that each such child is placed in a manner that is appropriate for the gender identity or expression of the child. (NRS 433B.325) **Section 2** of this regulation prescribes these factors.

Existing law requires a treatment facility or any other facility operated by the Division to treat each child committed to the facility by a court order in accordance with the child's gender identity or expression. (NRS 433B.325) **Section 3** of this regulation requires a treatment facility or other facility operated by the Division to adopt a policy to ensure that each child committed to the facility by a court order is so treated.

Section 1. Chapter 433B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *Before committing a child with emotional disturbance to a treatment facility or other division facility, a court shall consider, without limitation:*

- 1. The gender identity or expression of the child;***
 - 2. Whether the facility has adopted the policy required by section 3 of this regulation;***
 - 3. The ability of the facility to meet the needs of the child;***
 - 4. Any information provided to the court pursuant to subsection 4 of NRS 432B.6077;***
- and***
- 5. Any recommendations concerning the appropriate environment for the child from:***
 - (a) Psychologists, psychiatrists or other physicians who have evaluated the child; and***
 - (b) Clinical social workers, other professionals and adult caretakers who have interacted with the child.***

Sec. 3. *Each treatment facility or other division facility into which a child may be committed by a court order shall adopt a policy to ensure that each child who is committed to the facility by a court order is treated in all respects in accordance with the child's gender identity or expression. The policy must include, without limitation:*

- 1. A procedure that the facility will use to determine the sexual orientation and gender identity or expression of the child. Such a determination must be based on self-reporting from the child that is conducted in a respectful and developmentally appropriate manner.***
- 2. A procedure for responding to the gender identity or expression of the child while the child is committed to the facility, including, without limitation, determination of housing assignments and placement within the facility with consideration for the wishes of the child and any recommendations concerning the treatment of the child.***

3. *The rights of each child to be free from bullying, harassment and abuse because of sexual orientation or gender identity or expression.*

4. *A requirement that the staff of the facility must communicate effectively and professionally with and about each child, regardless of the sexual orientation or gender identity or expression of the child.*

5. *Measures to detect and protect each child from bullying, harassment or abuse and neglect.*

6. *The identification of resources necessary for the staff of the facility to support the sexual orientation and gender identity or expression of each child committed to the facility and measures to ensure that members of the staff have access to those resources.*

7. *Prohibitions on:*

(a) *Members of the staff of the facility examining the genital area of a child solely to determine the gender of the child;*

(b) *Members of the staff of the facility using language, behavior or gesture that may put a child at risk of bullying, harassment or abuse or neglect; and*

(c) *Placing a child in isolation or another restrictive setting because of the sexual orientation or gender identity or expression of the child or to keep the child safe from victimization.*

8. *As used in this section:*

(a) *“Abuse” has the meaning ascribed to it in NRS 433B.340.*

(b) *“Gender identity or expression” has the meaning ascribed to it in NRS 424.0145.*

(c) *“Neglect” has the meaning ascribed to it in NRS 433B.340.*



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**SMALL BUSINESS IMPACT STATEMENT
PURSUANT TO NRS 233B**

Date: March 12, 2018

Re: The Division of Child and Family Services Adoption Regulations pertaining to Chapter 433B.46

This small business impact statement is made pursuant to NRS 233B.0608 (3) and complies with the requirements of NRS 233B.0609.

A small business is defined in Nevada Revised Statutes NRS 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees."

Section 46 & 47 of Assembly Bill 99 of the 79th Legislative Session mandated that "Factors for a court to consider before committing a youth to a treatment facility or other division facility..." as well as "protocols required for Treatment Facilities and Division Facilities to follow when placing a youth who is ordered by a court into treatment..." be adopted as a way to ensure that the children and youth of Nevada are not discriminated against for their sexual orientation, gender identity or gender expression .

Pursuant to NRS 233B.0608 (2)(a), the Division of Child and Family Services has requested input from small businesses most likely to be impacted by this regulation.

As the regulation affects some privately-owned treatment facilities, the agency did reach out to Willow Springs Treatment Center, Northern Nevada Teen Challenge, Seven Hills Behavioral Health Hospital, Spring Mountain Treatment Center, Las Vegas Recovery Center, WestCare Nevada, Desert Parkway Behavioral Healthcare Hospital, Montevista Hospital, Center for Hope of the Sierras, Never Give Up Youth Healing Center, and Sierra Sage. DCFS contacted each facility by telephone to identify the specific contact for the person in their organization that would be responsible for answering these questions and then emailed those individuals directly. A Small Business Impact Questionnaire was sent along with a copy of the proposed regulation on February 15, 2018 with a deadline of February 20, 2018 to complete. The questions on the questionnaire were:

- 1) How many employees are currently employed by your business?
- 2) Will a specific regulation have an adverse economic effect upon your business? Please list each regulation and explain the impact.
- 3) Will the regulation(s) have any beneficial effect upon your business? Please explain.

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- 4) Do you anticipate any indirect adverse effects upon your business? Please explain.
- 5) Do you anticipate any indirect beneficial effects upon your business? Please explain.

DCFS did not receive any response from the facilities notified on how the current proposed regulations would impact their business. As the proposed regulations are reflecting internal considerations and policy changes, there is, at this time, no suspected adverse or beneficial financial impact to small business either directly or indirectly.

I, Kelly Wooldridge, Administrator of the Department of Health and Human Services, Division of Child and Family Services, do hereby certify that, to the best of my knowledge or belief that the information contained in this statement was prepared properly and is accurate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'CWJ', is written over a light gray rectangular background.

Kelly woodridge
Administrator