

Joe Lombardo
Governor

Richard Whitley, MS
Director



DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF CHILD AND FAMILY SERVICES
Helping people. It's who we are and what we do.



Marla McDade
Williams, MPA
Administrator

PUBLIC NOTICE

PUBLIC WORKSHOP:

QUALIFIED RESIDENTIAL TREATMENT PROGRAM REGULATIONS

AGENDA

DATE: December 7, 2023

TIME: 9:00 A.M. – Adjournment

LOCATION: 6171 West Charleston Boulevard, Building 8, Las Vegas, Nevada 89146,

Or Virtual Option, pursuant to NRS 241.023

Microsoft Teams meeting

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Members of the public may hear and observe the meeting and participate in the meeting by video or phone. Members of the public may also provide live public comment during the public comment sections of the agenda. If members of the public desire to provide a pre-recorded public comment for a meeting, it must first be authorized before the meeting by the public body. Reasonable efforts will be made to ensure that all attendees/public can hear or observe the members of the body, so it is recommended that members keep their cameras on through the meeting, unless there are technical difficulties, or a member can only appear by phone during the meeting.

- *Items may be taken out of order, may be combined for consideration by the public body, and/or may be pulled or removed from the agenda at any time to accomplish business in the most efficient manner.*
- *“For Information” items are informal in nature and may include discussion and ideas.*
- *“For Possible Action” items may be voted on or approved by members of the commission.*

AGENDA

1. **Opening Remarks** – *Dr. Tonya Hernandez, Deputy Administrator Department of Child and Family Services*
2. **For Information: Brief Introductions** – *Lupie Janos, Social Services Chief, Family Programs Office*
3. **Initial Public Comment (Discussion only: Action may not be taken on any matter brought up under this agenda item until scheduled on an agenda for action at a later meeting)** – *Dr. Tonya Hernandez, Deputy Administrator Department of Child and Family Services*
 - To provide public comment, please unmute your microphone before speaking, or you can call in to this meeting by using the number 775-321-6111, with passcode number 330 509 454#. If providing public comment during the Teams Meeting, unmute your microphone prior to speaking. Persons making comment will be asked to begin by stating their name for the record and to spell their last name.
4. **Overview of Authorizing Legislation** – *Lupie Janos, Social Services Chief, Family Programs Office*
5. **Discussion of Regulations** – *Dr. Tonya Hernandez, Deputy Administrator Department of Child and Family Services*
6. **Recommendations Concerning the Proposed Regulations** – *Dr. Tonya Hernandez, Deputy Administrator Department of Child and Family Services*
7. **Final Public Comment (Discussion only: Action may not be taken on any matter brought up under this agenda item until scheduled on an agenda for action at a later meeting)** – *Dr. Tonya Hernandez, Deputy Administrator Department of Child and Family Services*
 - To provide public comment, please unmute your microphone before speaking, or you can call in to this meeting by using the number 775-321-6111, with passcode number 330 509 454#. If providing public comment during the Teams Meeting, unmute your microphone prior to speaking. Persons making comment will be asked to begin by stating their name for the record and to spell their last name.
8. **Adjournment** – *Dr. Tonya Hernandez, Deputy Administrator Department of Child and Family Services*

We are pleased to provide special accommodation assistance to persons with disabilities who wish to attend. Notify Lupie Janos, via email at mjanos@dcfs.nv.gov , no later than three (3) business days prior to the meeting date. Supporting materials may be obtained through a written request sent to mjanos@dcfs.nv.gov.

This Notice and Agenda has been sent to be posted at the following locations, in accordance with NRS Chapter 241:

State of Nevada- Division of Child and Family Services

Website: https://dcfs.nv.gov/Meetings/2023/Meetings_2023/

State of Nevada- Nevada Public Notices

Website- <https://notice.nv.gov/>

1. **Division of Child and Family Services, 6171 W. Charleston Blvd. Bldg. 8, Las Vegas, NV 89146**
2. **Northern Nevada Child and Adolescent Services, 2655 Enterprise Rd., Reno, NV 89512**
3. **Nevada Youth Parole Bureau, 6171 W. Charleston Blvd., Bldg. 15, Las Vegas, NV 89146**
4. **Division of Child and Family Services, 1010 Ruby Vista Dr. Suite 101, Elko, NV 89801**

PROPOSED REGULATION OF THE
DIVISION OF CHILD AND FAMILY SERVICES
OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
NRS 432B.190

Section 1. Chapter 432B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

Sec. 2. *“Family foster home” has the meaning ascribed to in it NRS 424.013.*

Sec. 3. *As used in sections 3 to 12, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 4, 5 and 6 of this regulation have the meanings ascribed to them in those sections.*

Sec. 4. *“Family and permanency team” means the family and permanency team assembled for a child pursuant to section 8 of this regulation.*

Sec. 5. *“Qualified individual” means a trained professional or licensed clinician who is not an employee of an agency which provides child welfare services, and who is not connected to, or affiliated with, any placement setting in which children are placed by an agency which provides child welfare services, unless the Secretary of the United States Department of Health and Human Services has approved a request by the Division made pursuant to 42 U.S.C. § 675a(c)(1)(D)(ii) to waive one or more of these requirements.*

Sec. 6. *“Qualified residential treatment program” has the meaning ascribed to it in 42 U.S.C. § 672(k)(4).*

Sec. 7. 1. *Not later than 30 days after a child is placed in a qualified residential treatment program, the qualified residential treatment program must ensure that the child is assessed by a qualified individual. The qualified individual must:*

- (a) Assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool approved by the Secretary of the United States Department of Health and Human Services;*
- (b) Determine whether the needs of the child can be met with family members or through placement in a family foster home and, if not, which setting from among the settings set forth in 42 U.S.C. § 672(k)(2) would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short term and long term goals for the child, as specified in the plan for the permanent placement of the child;*
- (c) Develop a list of child-specific short term and long term mental and behavioral health goals for the child; and*
- (d) Work in conjunction with the family of, and the family and permanency team of, the child while conducting and making the assessment pursuant to this section.*

2. If the qualified individual determines pursuant to subsection 1 that the child should not be placed in a family foster home, the qualified individual must specify in writing:

- (a) The reasons why the needs of the child cannot be met by the family of the child or in a family foster home. A shortage or lack of family foster homes is*

not an acceptable reason for determining that the needs of the child cannot be met in a family foster home.

(b) Why the recommended placement in a qualified residential treatment program is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short term and long term goals for the child, as specified in the plan for the permanent placement of the child.

Sec. 8. *1. An agency which provides child welfare services shall assemble a family and permanency team for each child placed in a qualified residential treatment program.*

2. The team assembled pursuant to subsection 1 must consist of:

(a) All appropriate biological family members, relatives and fictive kin of the child;

(b) All appropriate professionals who are a resource to the family of the child, including, without limitation, teachers, medical or mental health care providers who have treated the child, and clergy; and

(c) If the child is 14 years of age or older, the members of the permanency planning team for the child who are selected by the child pursuant to 42 U.S.C. § 675(5)(C)(iv).

Sec. 9. *1. An agency which provides child welfare services shall, for each child placed in a qualified residential treatment program, document in the written case plan of the child developed pursuant to NAC 432B.400:*

- (a) The reasonable and good faith effort of the agency which provides child welfare services to identify and include each person described in subsection 2 of section 8 of this regulation on the family and permanency team of the child;*
- (b) All contact information for members of the family and permanency team of the child;*
- (c) All contact information for other family members and fictive kin of the child who are not members of the family and permanency team of the child;*
- (d) Evidence that meetings of the family and permanency team of the child, including, without limitation, meetings related to the assessment required pursuant to section 7 of this regulation, are held at a time and place that are convenient for the family of the child;*
- (e) If reunification of the child with his or her family is the goal, evidence demonstrating that the parent from whom the child was removed provided input on the members of the family and permanency team of the child;*
- (f) Evidence that the assessment required pursuant to section 7 of this regulation was carried out in conjunction with the family and permanency team of the child;*
- (g) The placement preferences of the family and permanency team of the child relative to the assessment that recognizes that children should be placed with their siblings unless there is a finding by the court that such placement is contrary to the best interests of the child; and*

(h) If the placement preferences of the family and permanency team of the child and the child are different from the placement setting recommended by the qualified individual conducting the assessment required pursuant to section 7 of this regulation, the reasons why the preferences of the family and permanency team and of the child were not recommended.

2. An agency which provides child welfare services shall, for each child placed in a qualified residential treatment program, include in and make part of the written case plan of the child developed pursuant to NAC 432B.400:

(a) The written documentation prepared by the qualified individual pursuant to subsection 2 of section 7 of this regulation; and

(b) The written determination issued by the court pursuant to subsection 5 of section 35 of Assembly Bill No. 148 from the 2023 Legislative Session.

Sec. 10. *1. At a hearing conducted pursuant to subsection 2 of section 35 of Assembly Bill No. 148 from the 2023 Legislative Session, the court shall consider the assessment, determination and documentation made by the qualified individual who conducted the assessment of the child pursuant to section 7 of this regulation.*

2. As part of each review conducted pursuant to NRS 432B.580 and at each hearing held pursuant to NRS 432B.590 for the duration of the placement of a child in a qualified residential treatment program, the agency which provides child welfare services shall submit evidence documenting:

(a) The specific treatment or service needs that will be met for the child in the placement and the length of time that the child is expected to need the treatment or services; and

(b) The efforts made by the agency which provides child welfare services to prepare the child to return home or to be placed in a family foster home or with a fit and willing relative, a legal guardian or an adoptive parent.

Sec. 11. *If an agency which provides child welfare services places a child in a qualified residential treatment program for more than 12 consecutive months or more than 18 nonconsecutive months, or if the child is less than 13 years of age, for more than 6 consecutive or nonconsecutive months, the agency shall submit to the Secretary of the United States Department of Health and Human Services:*

- 1. The most recent versions of the evidence and documentation considered as part of a review conducted pursuant to NRS 432B.580 or a hearing held pursuant to NRS 432B.590; and*
- 2. The signed approval of the head of the agency for the continued placement of the child in a qualified residential treatment program.*

Sec. 12. *1. Each qualified residential treatment program must use a trauma-informed model of care that is designed to address the needs, including, without limitation, the clinical needs, of children with serious emotional or behavioral disorders or disturbances.*

- 2. A trauma-informed model of care required pursuant to this section must include a process for identifying the signs and symptoms of trauma in children and must*

address the needs of children related to trauma. This process must include, without limitation:

(a) Screening for trauma by completing a trauma-specific screening tool for each child placed in the qualified residential treatment program or obtaining the results of a trauma-specific screening tool that was completed for the child within 30 days before the child was placed in the qualified residential treatment program; and

(b) Ensuring that trauma-based interventions targeting specific trauma-related symptoms are available to each child placed in the qualified residential treatment program when needed to assist the child in obtaining services.

3. In developing and providing services to each child according to the trauma-informed model of care required pursuant to this section, each qualified residential treatment program must:

(a) Recognize the impact of trauma on a child when determining the service needs of the child and providing services to the child;

(b) Allow each child to participate in reviewing and developing the individualized treatment or service plan of the child;

(c) Provide person-centered and culturally responsive services to each child;

(d) Adjust services for each child to address the additional needs of the child;

(e) Assess each child to determine if the child needs trauma-specific treatment interventions;

(f) Identify the manner in which the program will provide trauma-specific treatment interventions to the child;

- (g) Provide trauma-specific treatment interventions to a child that target the specific trauma-related symptoms of the child; and*
 - (h) Train all clinical staff of the program on trauma-specific treatment interventions.*
- 4. Each qualified residential treatment program must provide a physical, social and emotional environment that:*
 - (a) Promotes the physical and psychological safety of each child;*
 - (b) Avoids any aspect of the environment that may be retraumatizing;*
 - (c) Responds to trauma experienced by each child and the other needs of the child; and*
 - (d) Includes designated spaces that are available to each child for engaging in sensory and self-soothing activities.*
- 5. Each qualified residential treatment program must base the policies and procedures of the program on trauma-informed principles. These policies and procedures must:*
 - (a) Describe the manner in which the program provides services according to a trauma-informed model of care;*
 - (b) Describe the manner in which the environment of the program satisfies the requirements set forth in subsection 4;*
 - (c) Prohibit the use of aversive consequences on a child for a violation of a program rule or for any other reason; and*

(d) Describe the process for the manner in which the program incorporates trauma-informed principles and practices into the organizational culture of the program.

6. *Each qualified residential treatment program must, before it permits a member of its staff to have direct contact with a child, and annually thereafter, train the member of its staff about:*

(a) Concepts of trauma-informed care and how to provide services to each child according to these concepts; and

(b) The impacts of the culture, race, gender and sexual orientation of each child on the behavioral health and traumatic experiences of the child.

(The provisions of section 12 come from Minnesota Statutes 2022, 245A.25, Subdivision 3. You may want to amend them in any manner or remove them.)

Sec. 13. NAC 432B.010 is hereby amended to read as follows:

As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 432B.011 to 432B.017, inclusive, *and section 2 of this regulation*, have the meanings ascribed to them in those sections.

Sec. 14. NAC 432B.017 is hereby amended to read as follows:

“Foster care” means any out-of-home placement of a child. The term includes:

1. The placement of a child into:

(a) A family foster home ~~[, as that term is defined in NRS 424.013;]~~ ;

(b) A group foster home, as that term is defined in NRS 424.015; or

(c) Any other similar institution having the appropriate qualifications and facilities to provide the necessary and desirable degree and type of care to the child.

2. The placement of a child with a relative other than the relative who had a legal responsibility for providing a home for the child before the child was placed into the custody of the agency which provides child welfare services.

3. An independent living arrangement approved by the agency which provides child welfare services in accordance with NAC 432B.410, made by the agency which provides child welfare services for a child in the custody of the agency which provides child welfare services pursuant to NRS 127.050 or 432B.550, or for whom the agency which provides child welfare services is responsible pursuant to NRS 432B.360.

Sec. 15. NAC 432B.400 is hereby amended to read as follows:

1. The agency which provides child welfare services shall develop a written case plan for a child within 45 days after the date on which the child is removed from his home.

The case plan:

(a) Must:

(1) If possible, be developed jointly with a parent or guardian of the child who is receiving foster care;

(2) Be developed with input from the child if the agency which provides child welfare services determines it is appropriate, based on the age and stage of development of the child; and

(3) Be developed with input from the foster parent caring for the child.

(b) Must include a plan to ensure that:

(1) The care that the child receives is safe and proper; and

(2) The parent or guardian of the child receives services to improve the condition of the home as well as to facilitate the safe return of the child to his home or another permanent placement; and

(c) Must be updated at least once every 6 months and submitted to the court with the report required by NRS 432B.580.

2. The case plan developed pursuant to subsection 1 must include:

(a) A statement addressing the long-term goals of the plan, including reunification of the child and his family, permanent placement of the child with a relative, placement of the child for adoption, placement of the child into a legal guardianship or placement of the child into another permanent living arrangement;

(b) A projected time by which these goals should be achieved;

(c) A description of the current strengths of the family and the needs which must be satisfied to achieve these goals;

(d) A description of services offered or provided to prevent removal of the child from his home and to reunify the family of the child;

(e) A description of the type of home or institution in which the child is placed;

(f) A description of the safety and appropriateness of the placement to ensure that the child receives proper care, including, without limitation, a description of the manner in which the agency will accomplish this goal;

(g) A description of the manner in which the agency will ensure that services are provided to the child and the foster parents which address the needs of the child while in foster care, including, without limitation, the appropriateness of services that have been provided pursuant to the case plan;

(h) A description, as applicable, of the programs and services which will assist a child in foster care who is 16 years of age or older prepare for the transition from foster care to independent living;

(i) If the goal of the case plan is adoption or placement in another permanent home, a description of the steps that will be taken to finalize the adoption or placement, including any steps that will be taken to recruit adoptive parents through the use of electronic or other types of state, regional and national adoption exchanges, or by other means;

(j) A description of the manner in which a placement will be made and the reasons that such a placement will be in the best interest of the child, with particular consideration given to a placement that is safe and in the least restrictive familial environment available;

(k) In addition to the factors set forth in paragraph (j), if the goal of the case plan is reunification of the child and his family, the description provided pursuant to paragraph (j) must indicate that particular consideration will be given to a placement that is in close proximity to the home of the parent of the child;

(l) If the child will be placed in a family foster home or institution for child care that is located a substantial distance from or in a different state than where the family of the

child resides, a description of the reasons that such a placement will be in the best interest of the child;

(m) If a child is placed in a family foster home or institution for child care that is located in a different state than where the parents of the child reside, a description of the frequency with which a caseworker from an agency that provides child welfare services and that is located in the state in which the child is placed or the state in which the parents of the child reside will visit the foster home or institution and will submit a report to the agency that provides child welfare services in the state in which the parents of the child reside;

(n) A description of the efforts that will be made to place children who are siblings together;

(o) A plan for family visitation, including, without limitation, visiting siblings if the siblings are not residing together;

(p) A statement indicating that the proximity of the school in which the child was enrolled at the time that he was placed in foster care was considered as a factor in the selection of the placement for foster care; and

(q) The health and education records of the child to the extent those records are available, including, without limitation:

(1) The names and addresses of the providers of health care and education of the child;

(2) The grade level at which the child performs;

- (3) Documentation of the immunizations that the child has had;
- (4) Documentation of any known medical or psychological problems of the child;
- (5) Documentation of any medications prescribed for the child; and
- (6) Such other health or educational information concerning the child as the agency which provides child welfare services determines is necessary.

3. The agency which provides child welfare services shall ensure that the report described in paragraph (m) of subsection 2 is submitted to the agency located in the county in which the parents of the child reside at least once every 12 months.

4. As used in this section ~~f~~:

~~—(a) “Education records”]~~ *education records* means a report card or other report of progress and an individual education plan, if applicable.

~~—[(b) “Family foster home” has the meaning ascribed to it in NRS 424.013.]~~

Please consider whether a QRTP should be included in the definition of “residential institution” in NAC 432B.330 so that the provisions of NAC 432B.330 to 432B.370, inclusive, apply to QRTPs.

Regulations to License Qualified Residential Treatment Programs
**PROPOSED REGULATION OF THE DIVISION OF WELFARE AND SUPPORTIVE
SERVICES OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

NRS 432A.0245, 432A.131(5), 432A.190(2)

Section 1. Chapter 432A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *“Qualified residential treatment program” has the meaning ascribed to it in 42 U.S.C. § 672(k)(4).*

Sec. 3. *“Trauma-informed treatment model” means a comprehensive approach to treatment and care that:*

- 1. Recognizes the widespread impact of trauma and uses potential paths for recovery;*
- 2. Recognizes the signs and symptoms of trauma in children, families, staff and other persons involved in the child welfare system;*
- 3. Fully integrates knowledge about trauma into policies, procedures and practices; and*
- 4. Actively seeks to resist retraumatization.*

Sec. 4. *An applicant for a license to operate a qualified residential treatment program must, before a license is issued to him or her, submit to the Division evidence that the qualified residential treatment program:*

- 1. Provides services according to a trauma-informed treatment model that is designed to meet the needs, including, without limitation, clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances. This model must enable the qualified residential treatment program to provide the treatment identified for each child by the assessment of the child required pursuant to 42 U.S.C. § 675a(c).*
- 2. Has a registered nurse as defined in NRS 632.019, a licensed practical nurse as defined in NRS 632.016, or other clinical staff who:*
 - (a) Provide care within the scope of their practice in accordance with their authorized scope of practice set forth in state law;*
 - (b) Are on-site according to the treatment model set forth in subsection 1; and*
 - (c) Are available 24 hours a day, 7 days a week.*
- 3. To the extent appropriate, and in accordance with the best interests of each child, facilitates participation of family members in the treatment program of the child.*
- 4. Facilitates outreach to the family members of each child, including, without limitation, siblings of the child and documents how that outreach is done.*

5. *Maintains contact information for each known biological family member and fictive kin of each child.*
6. *Documents the manner in which the qualified residential treatment facility integrates family members into the treatment program of each child, including, without limitation, after the child is discharged from the qualified residential treatment program.*
7. *Documents how the connection between each child and his or her siblings is maintained.*
8. *Provides discharge planning and family-based aftercare support for at least 6 months after each child is discharged from the qualified residential treatment program.*
9. *Is licensed in accordance with 42 U.S.C. § 671(a)(10).*
10. *Is accredited by:*
 - (a) *The Commission on Accreditation of Rehabilitation Facilities;*
 - (b) *The Joint Commission on Accreditation of Healthcare Organizations;*
 - (c) *The Council on Accreditation; or*
 - (d) *Any other independent, not-for-profit accrediting organization approved by the United States Department of Health and Human Services.*

Sec. 5. *The Division may contract with a person, governmental agency or political subdivision outside the Division to perform all or part of the administrative duties associated with the licensure, inspection and investigation of a qualified residential treatment program, subject to the direction and approval of the Division.*

Sec. 6. NAC 432A.010 is hereby amended to read as follows:

As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 432A.012 to 432A.165, inclusive, *and sections 2 and 3 of this regulation*, have the meanings ascribed to them in those sections.

Sec. 7. NAC 432A.130 is hereby amended to read as follows:

“Institution” means a child care institution, *other than a qualified residential treatment program*. **MAKE SURE THAT THIS IS CORRECT. IF THE EXISTING PROVISIONS LISTED BELOW RELATED TO INSTITUTIONS MAKE SENSE FOR QRTPS, THEN THIS SHOULD PROBABLY BE REMOVED.**

Please consider whether the provisions of NAC 432A.440 to 432A.460, inclusive, which govern child care institutions (which will include QRTPs, unless we exclude them) work for QRTPs. These sections can be amended or we can draft the regulation so that they don't apply to QRTPs. The sections I noticed that might be problematic mention parents of the children. These are NAC 432A.440(5) and NAC 432A.450(1)(c) and (6). But there may be additional provisions you want to change to address QRTPS that I missed or you may want them to all apply to QRTPs. The other provisions of chapter 432A of NAC which specifically address child care institutions are: NAC 432A.255(5), NAC

432A.306(2) and (5), NAC 432A.5205. Please consider whether these need to be changed or whether they can apply to QRTPs as they are currently written.

I looked over all of the existing provisions of chapter 432A of NAC and did not see anything I thought needed to be changed, but you might find some provisions you think should be amended.