

Title 14 INDEPENDENT AGENCIES

Subtitle 31 OFFICE FOR CHILDREN

Chapter 01 Local and State Coordinating Councils

Authority: Article 41, §§6-101 and 6-104; Article 83C, §§2-102, 2-104, and 2-113; Article 88A, §3; Education Article, §§8-103—8-303 and 8-401—8-417; Health-General Article, §§2-102, 2-104, 2-105, 4-305—4-307, 7-1007, 10-204, 10-712, 10-1203, and 15-102.1; Annotated Code of Maryland

.01 Purpose.

The purpose of this chapter is to:

A. Define the roles and responsibilities of the State Coordinating Council and the local coordinating councils in fostering the development of resources necessary to serve children with special needs in the State of Maryland;

B. Promote interagency coordination in the provision of such services; and

C. Ensure that State funds for the residential placement of children with special needs are allocated in accordance with relevant State and federal laws.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Appropriate" service or placement means a service, placement, or plan of care provided in accordance with the requirements of applicable federal and State laws, including:

(a) 20 U.S.C. §1400 et seq.;

(b) 42 U.S.C. §§620 and 670 et seq.;

(c) The Child Abuse Prevention and Treatment Act, 42 U.S.C. §5102 et seq.;

(d) The Adoptions and Safe Families Act of 1997 (P. L. 105-89);

(e) Courts and Judicial Proceedings Article, §3-820, Annotated Code of Maryland;

(f) COMAR 13A.05.01 and 13A.05.02;

(g) Health-General Article, Title 15, Annotated Code of Maryland;

(h) Applicable regulations in COMAR 10.09; and

(i) The reauthorization of the Elementary and Secondary Schools Act of 2001, P.L. 107—110 (January 8, 2002).

(2) Child in Need of Out-of-State Placement.

- (a) "Child in need of out-of-State placement" means a child who is recommended for or placed in an out-of-home placement outside of the State by a member agency of the local coordinating council.
- (b) "Child in need of out-of-State placement" does not include a child placed in foster care, as defined in Family Law Article, §5-501, Annotated Code of Maryland.
- (3) "Child in need of residential placement" means a child:
- (a) Recommended for placement in a residential placement by a member of the local coordinating council;
 - (b) On whose behalf the member seeks State funding for the placement; and
 - (c) That a member agency has determined meets the eligibility criteria for a State-funded placement.
- (4) "Child with intensive needs" means a child who has behavioral, educational, developmental, or mental health needs that cannot be met through available public agency resources because:
- (a) The child's needs exceed the resources of a single public agency; and
 - (b) There is no legally mandated funding source to meet the child's needs.
- (5) "Child with special needs" means a child in need of residential placement or a child with intensive needs.
- (6) "Children's Cabinet" means those agencies directed by Executive Order:
- (a) To examine Maryland's system of services to children and their families; and
 - (b) To facilitate ongoing improvements to this service delivery system.
- (7) "Community services initiative" means the system for the distribution of flexible Children's Cabinet funds to return or to divert children from unnecessarily restrictive placements outside of their home communities.
- (8) "Flexible Children's Cabinet funds" means funds allocated to the Children's Cabinet for the provision of community-based, interagency services for children.
- (9) "Funding agency" means the State or local agency designated by State or federal law or by the local coordinating council as responsible for funding or cofunding educational, residential, or treatment services identified in a child's plan of care.
- (10) "Lead agency" means the local agency identified by federal or State law or by the local coordinating council as responsible for the oversight and implementation of the child's plan of care.
- (11) "Local agency" means the local school system, the local management board, and any local or regional departments, divisions, or offices of the State agencies identified in §B(18) of this regulation.
- (12) "Local coordinating council (LCC)" means the interagency body established in each local subdivision in the State for the purpose of developing and implementing plans of care for the residential placement, or alternatives to residential placement, of children with special needs.
- (13) "Local management board (LMB)" means the interagency body established by each local jurisdiction in the State for the purpose of overseeing and ensuring the implementation of a local interagency delivery system for children, youth, and families in that jurisdiction.
- (14) "Out-of-State placement" means the placement of a child with special needs in a residential facility outside of the State for which State funding is sought, including:
- (a) Alternative living units;
 - (b) Group homes;
 - (c) Hospitals;
 - (d) Residential facilities for children with disabilities;
 - (e) Residential treatment centers;
 - (f) Wilderness programs; and
 - (g) Other out-of-home settings as needed or appropriate to meet the special needs of a child.

(15) "Parent advocate" means an individual who is trained by and actively participates in a parents' support or advocacy organization whose purpose is to support families of children with special needs.

(16) "Parent or guardian" means the parent, guardian, or person with legal authority to make decisions regarding the placement or other services provided by public agencies to a child with special needs.

(17) "Plan of care" means the plan developed by the LCC in response to a referral from a member agency, for the residential placement of a child with special needs, or services which provide an appropriate alternative to residential placement for a child with special needs, consistent with:

(a) The child's individualized education program, if the child is a student with disabilities;

(b) Any court-ordered services;

(c) Services covered and authorized under the Maryland Medical Assistance Program if the child is eligible for medical assistance under Health-General Article, Title 15, Annotated Code of Maryland; or

(d) Any other service or program mandated by federal or State law with respect to the individual child.

(18) Residential Placement.

(a) "Residential placement" means a placement in:

(i) An out-of-State hospital, for purposes other than acute care psychiatric assessment;

(ii) A residential treatment center;

(iii) A residential school;

(iv) An intermediate care facility for the mentally retarded; or

(v) Other programs identified by the Children's Cabinet as additional funding may become available to children in need of residential placement and children with intensive needs.

(b) "Residential placement" does not include a placement in:

(i) A facility established under Article 83C, §2-117, Annotated Code of Maryland; or

(ii) Foster care, as defined in Family Law Article, §5-501, Annotated Code of Maryland.

(19) "State agency" means the:

(a) Department of Health and Mental Hygiene;

(b) Department of Human Resources;

(c) Department of Juvenile Services;

(d) Governor's Office for Children; and

(e) Maryland State Department of Education.

(20) "State Coordinating Council (SCC)" means the State interagency body established as a committee of the Children's Cabinet and which is responsible for:

(a) Overseeing the operation of the LCCs;

(b) Monitoring the provision of residential placement services to children with special needs; and

(c) Performing additional functions in accordance with the directives of the Children's Cabinet.

14.31.01.03

.03 Membership and Organization of the SCC and the LCC.

A. SCC Membership and Organization.

(1) The members of the SCC are the following State officials, or their designees:

(a) The Secretary of the Department of Health and Mental Hygiene;

(b) The Secretary of the Department of Human Resources;

(c) The Secretary of the Department of Juvenile Services;

(d) The Director of the Governor's Office for Children; and

- (e) The State Superintendent of Schools.
- (2) The Secretary of the Department of Disabilities, or a designee, shall participate as a non-voting, ex officio member of the SCC.
- (3) The Governor's Office for Children shall provide staff support for the SCC.
- (4) The SCC shall be chaired by a voting member as follows:
 - (a) The chairman shall serve a term of 12 months; and
 - (b) The chairmanship shall rotate among all voting members.
- (5) The SCC shall establish and develop procedures for the selection and operation of a committee to:
 - (a) Review applications for state funding for the placement of individual children with special needs made by the LCC;
 - (b) Make recommendations regarding the approval of such applications to the SCC; and
 - (c) Perform other functions as identified by the SCC.

B. LCC Membership and Organization.

- (1) Each LCC shall consist of at least one designee of each of the following bodies:
 - (a) The Alcohol and Drug Administration;
 - (b) The Department of Juvenile Services;
 - (c) The Developmental Disabilities Administration;
 - (d) The local school system;
 - (e) The local core service agency;
 - (f) The local department of social services;
 - (g) The local health department;
 - (h) The local management board; and
 - (i) The local office of the Division of Rehabilitation Services of the Maryland State Department of Education.
- (2) The LCC membership shall include a parent of a child with special needs from the community, or parent advocate, or both, appointed by the chairman of the LCC in consultation with the local child advocacy community.
- (3) Although each LCC member agency may designate staff to represent it on the LCC, all designees shall possess authority to the extent permitted by federal and State law to commit the resources of the agency that they represent.
- (4) For all matters decided by a vote of the LCC:
 - (a) Each member agency listed in §B(1) of this regulation has a single vote; and
 - (b) The parent and parent advocate member represented on the LCC each have a single vote.
- (5) The LCC shall select its chairman by:
 - (a) Rotating the chairmanship among the members of the agencies represented on the LCC; or
 - (b) Appointing the LMB'S designee to the LCC as its chairman.
- (6) The LCC is part of the LMB for administrative and budgetary purposes.
- (7) Subject to the availability of additional State appropriations, the LMB shall provide administrative staff and support to the LCC.
- (8) The LCC is independent of the LMB in its decisions regarding individual plans of care for children and policy recommendations regarding services to children.

14.31.01.04

.04 Role and Responsibilities of the SCC.

- A. General Responsibilities. The SCC shall encourage the implementation of the State's policies to:

(1) Promote the development of a continuum of quality educational, treatment, and residential services in Maryland which will enable children with special needs to be served in the least restrictive setting appropriate to their individual needs;

(2) Identify any additional treatment, educational, and residential resources or supports which may provide children with appropriate services in the least restrictive environment; and

(3) Prevent the inappropriate placement of children with special needs in out-of-State facilities.

B. Oversight of the LCC. The SCC shall oversee the operations of the LCC, including the:

(1) Development of policies and procedures to govern the structure and activities of LCCs including identification of the types of in-State and out-of-State placement recommendations which shall be referred to the LLCs by member agencies;

(2) Ongoing training for LCC members regarding applicable laws, regulations, policies, and procedures;

(3) Review and monitoring of LCC activities and operation;

(4) Review of applications for State funding of the placement of individual children with special needs in out-of-State residential or out-of-State long-term psychiatric facilities if the LCC recommends:

(a) An out-of-State residential or out-of-State long-term psychiatric placement on an initial basis;

(b) A change from one out-of-State placement to another;

(c) A change of placement within an out-of-State facility, if the recommended placement is more expensive or provides for a more restrictive environment; or

(d) The renewal of an out-of-State placement for an additional fiscal year;

(5) Technical assistance to LCC members to assist in resolving interagency disputes regarding residential placement issues; and

(6) Resolution of requests by parents of children with special needs for reconsideration of LCC decisions, in accordance with Regulation .07 of this chapter.

C. Oversight of Resources for Children with Special Needs. The SCC shall oversee the resources available to serve children with special needs through the following activities:

(1) Monitoring the services provided to children in in-State and out-of-State residential facilities, in cooperation with the LCCs as appropriate;

(2) Establishment, support, and maintenance of a multiple agency information system to support agency accountability and State level service planning capability;

(3) Maintenance of a list of all residential facilities for children with special needs, which are approved or licensed by State agencies;

(4) Participation in the interagency teams which monitor in-State and out-of-State facilities for compliance with applicable laws, regulations, and standards; and

(5) Recommendations to State and local agencies regarding the use of existing community-based services and the development of new and enhanced community-based programs to serve children with special needs.

D. Decisions of the SCC with respect to the funding of and, if appropriate, the placement of a child with special needs shall be advisory to the State agency with final authority to determine State funding for a child's plan of care.

14.31.01.05

.05 LCC Policies and Procedures.

A. With the approval of the SCC, each LCC shall develop policies and procedures to govern the:

(1) Conduct of regular meetings of the LCC; and

(2) Review of referrals by member agencies of individual children with special needs, including procedures for:

- (a) Timely review of all referrals;
 - (b) Expedited review of any referral designated as an emergency matter by the referring agency;
 - (c) Submission of placement and funding recommendations to the SCC;
 - (d) Development and implementation of plans of care; and
 - (e) Assurances of parental participation, or documentation of the LCC's diligent efforts to assure parental participation, in the development of the plan of care.
- B. The LCC is subject to the oversight of the SCC, including:
- (1) Ensuring the availability of LCC facilities, staff, and records to State monitors and auditors at the direction of the SCC; and
 - (2) Implementation of any corrective actions required by the SCC.
- C. The LCC shall act as soon as possible, and, except for good cause, within 30 days of receipt of a referral from a member agency to:
- (1) Review the referral;
 - (2) Assist in the identification of any community based services appropriate to meet the needs of the child;
 - (3) Develop a plan of care, as appropriate under this regulation; and
 - (4) Make application to the SCC for State funding, as appropriate under Regulation .11 of this chapter.

14.31.01.06

.06 Referrals to the LCC.

- A. The LCC shall review referrals by member agencies for the residential placement of children as provided in this regulation.
- B. The member agency shall refer all recommendations for residential placement before the child's placement if:
- (1) The agency believes that the child may require an out-of-State placement, to ascertain whether appropriate in-State programs have been considered;
 - (2) The agency believes that the child may be served appropriately through the community services initiative; or
 - (3) The recommended residential placements is not required under:
 - (a) The Individuals with Disabilities Education Act (20 U.S.C. §1400 et seq.); or
 - (b) Medicaid medical necessity criteria, as specified in 42 CFR Part 441.
- C. A member agency may refer a recommendation for residential placement before the child's placement to obtain advisory, technical assistance regarding the availability and funding of appropriate alternative community-based resources.
- D. Technical assistance under §C of this regulation:
- (1) May be made:
 - (a) To the child's individualized education program team, if the team has recommended 24-hour-a-day services under the child's individualized education program;
 - (b) To the child's placing agency, if the child has been determined to meet medical necessity criteria for residential placement under Maryland medical assistance requirements; and
 - (c) To a member agency, whenever the agency believes that LCC advice may assist in identifying funding sources and appropriate community based resources to serve a child in need of residential placement; and
 - (2) May not delay the member agency's efforts to secure a residential placement for a child.
- E. After placement, the lead agency shall refer all residential placements to the LCC:
- (1) In order to:
 - (a) Plan on an interagency basis for the child's transition to less restrictive services; and
 - (b) Collect data for monitoring and evaluation purposes; and

- (2) In accordance with the following time frames:
 - (a) Within 30 days after placement, if the child was placed by an LCC member agency; or
 - (b) Within 90 days after placement, for all other placements that come to the attention of an LCC member agency.

14.31.01.07

.07 Plan of Care.

- A. For each child referred to the LCC, the lead agency, in cooperation with the LCC, shall ensure that the child is served consistent with a plan of care that complies with this regulation.
- B. A plan of care complies with this regulation if it:
 - (1) Services the child in the least restrictive environment consistent with:
 - (a) The child's individualized education program, if the child is a student with disabilities;
 - (b) Any court order regarding the child's placement;
 - (c) The medical recommendations of the child's treating physician, if the child is eligible for medical assistance under Health-General Article, Title 15, Annotated Code of Maryland; and
 - (d) Any other legal requirements which govern the child's placement;
 - (2) Contains the following elements:
 - (a) Interagency services, as appropriate;
 - (b) Recommendation for an appropriate placement for the child to the agency or agencies with legal responsibility for providing the child with educational or residential services, or both; and
 - (c) A statement of the sources and amounts of funding to implement the plan of care, which may include:
 - (i) Public agency funds available for the recommended placement and services;
 - (ii) Public insurance funds for which the child's family intends to apply, as appropriate; and
 - (iii) Private funds, including parental contribution or private insurance, to fund any portion of the costs of implementing the plan of care for which public funds are not available under relevant federal or State law funding mechanisms; and
 - (3) Provides for the participation of the child's parent or guardian in the development of the plan of care consistent with Regulation .12 of this chapter and other relevant federal and State laws.

14.31.01.08

.08 Additional Responsibilities of the LCC.

- A. The LCC shall refer cases that it reviews to other entities, including:
 - (1) The LMB, if the child may be served appropriately by the Children's Cabinet community services initiative under Regulation .10 of this chapter;
 - (2) The SCC, in accordance with Regulation .11 of this chapter, if the LCC determines that the child requires an out-of-State placement; and
 - (3) Other agencies and service providers, as appropriate.
- B. With the lead agency, the LCC shall monitor implementation of the child's plan of care.
- C. In cooperation with the SCC, the LCC shall:
 - (1) Review resources available to serve children with special needs in its jurisdiction;
 - (2) Monitor services provided to those children; and
 - (3) Make recommendations regarding the development of additional community based services in its jurisdiction.

14.31.01.09

.09 Responsibilities of LCC Member Agencies.

A. Whenever a local agency determines that a child may require a residential placement, the agency shall refer the child's case promptly to the LCC for review, technical assistance, and coordination of interagency services to the extent required in Regulation .06 of this chapter.

B. For all children recommended for residential placement, each lead agency shall provide timely information in accordance with procedures established by the SCC for the tracking and monitoring of residential placements.

C. If a dispute among the agency representative members of the LCC as to the child's plan of care, or agency responsibilities for the plan of care, cannot be resolved at the local level, a member agency may submit the dispute to the SCC for resolution in accordance with the dispute resolution procedure adopted by the Children's Cabinet.

14.31.01.10

.10 Referrals to the Community Services Initiative.

A. If the LCC, the parent, and lead agency agree that a child referred to the LCC in accordance with Regulation .06 of this chapter may be served appropriately in the child's home community with additional community based supports, the LCC may refer the child to the LMB for services under the community services initiative.

B. The LMB will evaluate whether the child may properly be served under the Community Services Initiative based upon the following factors:

(1) The likelihood that community-based services will adequately benefit the child;

(2) The availability of qualified providers in or near the child's home community;

(3) The current availability of flexible Children's Cabinet funds to the LMB to pay for community based services not funded by the child's lead agency, or other agencies or payment sources; and

(4) A determination that the child's needs can be met without Children's Cabinet funding after a period of 2 years, based upon:

(a) A clinical assessment that the child's needs for the services included in the community based service plan will substantially diminish within a 2-year period; or

(b) The documented commitment of the child's lead agency, or other agencies or funding sources, to assume responsibility for the funding and implementation of the child's plan of care after 2 years.

C. The Children's Cabinet may approve an LMB's recommendation to serve a child under the community services initiative, subject to the availability of funds, according to a system of priorities.

D. The order of priorities for serving children with community services initiative funding, from highest to lowest, is as follows:

(1) A child in need of out-of-State placement, as defined in Regulation .02B(2) of this chapter;

(2) A child in need of out-of-State placement, as defined in Regulation .02B(2) of this chapter, already placed out-of-State;

(3) A child in need of residential placement, as defined in Regulation .02B(3) of this chapter, awaiting discharge from an in-State residential placement;

(4) A child in need of residential placement, as defined in Regulation .02B(3) of this chapter, recommended for in-State placement; and

(5) A child with intensive needs, subject to the availability of additional State funding and in accordance with the Children's Cabinet plan.

E. The Children's Cabinet shall establish procedures for the distribution of community services initiative funding in accordance with the priorities of §D of this regulation.

F. For each child served under the community services initiative, the LMB and the LCC shall jointly oversee implementation of the community based plan of care as follows:

(1) Before the end of 1 year of services, the LCC and LMB shall prepare a transition plan for serving the child without continued Children's Cabinet funds, to take effect not later than 2 years after the initiation of community based services;

(2) The LCC and LMB shall prepare the transition plan in coordination with the child's lead agency and any other funding agencies, and the child's parent or guardian;

(3) If the LMB and LCC identify any concerns with the ability of the lead agency to implement the transition plan after 2 years of community based services, the LMB shall report those concerns promptly to the Children's Cabinet; and

(4) If the transition plan cannot be implemented at the end of the 2-year service period for good cause, the LCC and LMB may request an extension of Children's Cabinet funded services to the Children's Cabinet or its designee.

G. The Children's Cabinet or its designee may grant an extension for good cause, subject to the availability of funds.

14.31.01.11

.11 Procedures to Obtain State Funding or Approval for an Out-of-State Placement.

A. After consideration of a referral for an out-of-State placement by the LCC, the referring agency shall submit an application for State funding for the costs, or a portion of the costs, of the placement, as provided by applicable State laws.

B. The application shall be on a form specified by the SCC and shall include the following:

(1) Information deemed necessary by the SCC to identify the child, the child's special needs, and the nature and costs of the recommended placement;

(2) Documentation of the LCC's efforts to serve the child in the least restrictive environment appropriate to the child's needs, including:

(a) A description of efforts to identify appropriate community-based services to meet the child's needs;

(b) Reasons why community-based options were considered inadequate to meet the child's needs or were otherwise rejected;

(c) A description of additional supports and services which would be required to provide appropriate services in an in-State facility, a community-based program, or the child's home;

(d) The lack of availability of appropriate in-State facilities and services to meet the needs of the child; and

(e) Referral to the LMB;

(3) A plan for the child's return from the out-of-State placement, including:

(a) Time frame for the child's return;

(b) Description of services and resources needed to facilitate the child's return; and

(c) As appropriate, identification of a strategy for developing resources needed to facilitate the child's return which are not currently available in the community.

C. SCC Approval of State Funding for an Out-of-State Placement.

(1) The SCC may approve an application from an LCC for State funding of an out-of-State placement under one of the following exception criteria:

(a) The out-of-State placement is closer to the child's home than any alternative in-State placement;

(b) The plan for the child's permanent placement includes residence with a caregiver in proximity to the proposed out-of-State placement;

(c) The individualized needs of the child cannot be met through available, appropriate in-State resources at a total cost less than or equal to 100 percent of the average cost per placement for all appropriate out-of-State programs for which application would be made for the child;

(d) The child is currently in detention, shelter care, or committed to the Department of Juvenile Services pending placement under to a court order;

(e) Compliance with the federal Individuals with Disabilities Education Act requires out-of-State placement; or

(f) The child is hospitalized in an acute care psychiatric hospital under the following circumstances:

(i) The child is committed to the Department of Juvenile Services, a local department of social services, or a division of the Department of Health and Mental Hygiene;

(ii) The child's treatment team has determined that the child is ready for discharge or must be discharged to a recommended placement within 30 calendar days; and

(iii) The only available, appropriate placement is out-of-State.

(2) The LCC shall indicate which of the above exceptions is applicable with regard to the placement of the child for whom it has made application to the SCC.

(3) Except for good cause, the SCC shall make a decision regarding the application for State funding of an out-of-State residential placement as soon as possible, and not later than 30 calendar days after receipt of the application from the LCC.

14.31.01.12

.12 Parental Participation.

A. Attendance at LCC and SCC Meetings.

(1) A child's parents and the child's legal counsel shall be invited to attend a meeting of the LCC, the SCC, or the Committee designated by the SCC to make recommendations regarding the approval of funding applications under Regulation .03 of this chapter, or any portion of the meeting during which the child's plan of care is presented.

(2) The child's parents and legal counsel may present information to the other meeting participants regarding their position as to the child's needs and proposed plan of care.

B. Notices to Parents.

(1) At least 10 calendar days before a meeting at which a child's plan of care is to be discussed, the parents and the child's advocate or counsel shall receive a written invitation to the meeting, including the:

(a) Date, time, and location of the meeting;

(b) Intent to discuss the child's plan of care at the meeting; and

(c) Parents' right to be represented by an advocate or counsel.

(2) Within 10 calendar days of a decision by an LCC or the SCC regarding the residential placement of a child with special needs, the LCC or the SCC shall provide written notice to the parents of the:

(a) Agency's decision or recommendation regarding the child's residential placement;

(b) Right of a parent to appeal the decision or recommendation; and

(c) Process for appeal.

C. Appeal of LCC and SCC Decision.

(1) The parent of a child with special needs may seek reconsideration of an LCC recommendation regarding the child's placement as follows:

(a) By filing an appeal in accordance with statutory or regulatory appeal provisions of the agency that referred the child to the LCC or was designated by the LCC to act as the lead agency in the child's case, which may include:

(i) The due process hearing system for the provision of an appropriate public education for students with disabilities, established under Education Article, §8-413, Annotated Code Maryland;

(ii) Provisions for contested case hearings relating to a program provided by the social services administration established in COMAR 07.01.04;

(iii) Provisions for appeal of decisions of the Developmental Disabilities Administration under COMAR 10.22.16; or

(iv) Any other relevant process established by statute or regulation for the reconsideration or appeal of agency decisions; or

(b) If no statutory or regulatory appeal mechanism is available to the parent with respect to the child's placement, by filing a written request for reconsideration with the SCC within 30 days of receipt of notice of the LCC decision.

(2) A request for SCC reconsideration of an LCC decision shall proceed as follows:

(a) The written request shall include all information and documentation considered necessary by the parent for full consideration of the appeal;

(b) The SCC has the discretion to seek further information from the parents, the LCC, or a local agency;

(c) The SCC shall ensure that its decision is consistent with the determination of the State agency that has final authority to determine appropriate services or State funding for the child's plan of care; and

(d) The SCC shall send a written notice of its decision to the parent and the LCC within 30 calendar days of receipt of the request for reconsideration.

(3) The SCC's decision regarding a reconsideration request is final and not subject to further administrative appeal.

14.31.01.13

.13 SCC Monitoring of Out-of-State Residential Services.

A. The SCC shall participate in the monitoring of out-of-State facilities where Maryland children are being served at State expense.

B. The SCC shall coordinate review of out-of-State facilities by an interagency monitoring team, including periodic site visits by the team, as appropriate.

C. Based upon the findings of the monitoring team, the SCC shall determine whether remedial actions are necessary.

D. Interagency monitoring efforts shall be:

(1) Consistent with any federal and State requirements applicable to SCC member agencies; and

(2) Pursuant to standards designed to protect the safety and welfare of the State's children in the facility, with reference to:

(a) The requirements of COMAR 14.31.05—14.31.07 for the licensure of residential child care programs in Maryland;

(b) Requirements for the education of students with disabilities, including 34 CFR 300 and 301 and COMAR 13A.05.02.13;

(c) Other relevant licensing requirements of the SCC member agencies; and

(d) The licensing requirements of the State in which the facility is located.

E. Post-Monitoring Remedial Actions for Out-of-State Services.

(1) Upon receipt of an interagency monitoring report which finds deficiencies in out-of-State residential services, the SCC shall:

(a) Assess the seriousness of the deficiencies;

(b) Determine whether it is necessary to:

(i) Remove children currently placed in the facility;

- (ii) Place a moratorium on future State-funded placements to the program;
 - (c) Develop a remedial plan, including implementation timelines, which the facility shall implement in order to continue to serve Maryland children; and
 - (d) Notify the program, the local placing agency or agencies, and the LCCs of its actions.
- (2) The SCC shall conduct periodic monitoring of any facility for which it has required a remedial plan to assess the facility's progress toward remedying deficiencies.
- (3) If the SCC determines that a facility has made insufficient progress toward remedying deficiencies, it may:
- (a) Require the removal of currently placed children from the facility;
 - (b) Place a moratorium on future State-funded placements at the facility; or
 - (c) Grant an extension of time for good cause for completion of a remedial action.
- (4) As appropriate, the SCC shall notify the following of its determination:
- (a) The appropriate licensing or accreditation authority in the state where the program is located;
 - (b) The facility;
 - (c) The LCC;
 - (d) The local placing agency or agencies;
 - (e) The State agencies identified in Regulation .02B(18) of this chapter; and
 - (f) The parent or guardian of any child required to be removed from the facility.

F. Services to Children at Facilities with Deficiencies.

- (1) The LCC and the local placing agency, in consultation with the SCC, shall identify an expedited, interim placement for a child who must be removed from a facility or for whom an application for placement at the facility is pending with the SCC, if the SCC decides to:
- (a) Remove currently placed children from the facility; or
 - (b) Place a moratorium on future State-funded placements to the facility.
- (2) If the SCC has determined that children may no longer be placed at a facility with uncorrected deficiencies, the SCC may grant a waiver for an individual child or group of children, based upon the following considerations:
- (a) The seriousness of the deficiency and its implications for the child's safety and welfare;
 - (b) Applicable legal requirements, including:
 - (i) The child's individualized education program, if the child is a student with disabilities;
 - (ii) Any court order regarding the child's placement;
 - (iii) The medical recommendations of the child's treating physician, if the child is eligible for medical assistance under Maryland Annotated Code, Health-General Article, Title 15, Annotated Code of Maryland; and
 - (iv) Any other legal requirements which may govern in the child's placement;
 - (c) The availability of alternative placements; and
 - (d) The ability of the facility to ensure safe and appropriate services for the individual child for whom the waiver is sought.

14.31.01.14

.14 Amendments.

Before being submitted for publication, any proposed amendments to this chapter shall be reviewed and approved by the Office for Children and the Children's Cabinet.

14.31.01.9999

Administrative History

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