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|  | INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY | |
| | Chapter 17: Residential Licensing | Effective Date: November 1, 2021 |
| | Section 09: Termination of Residential Contract | Version: 1 |

POLICY OVERVIEW

The Indiana Department of Child Services (DCS) contracts with residential facilities that provide services to DCS and probation youth in residential treatment. In the interest of child safety and well-being, a residential facility’s contract with DCS may be terminated if the facility does not follow the terms and conditions detailed in the executed contract. A residential facility may request to have its contract terminated by DCS.

PROCEDURE

Upon determining a residential facility failed to comply with material terms and conditions of the DCS contract, the process of contract termination may begin after the residential facility has been provided with 30 calendar days to cure or correct the material breach and has failed to correct the noncompliance issue(s) identified within the time allotted.

Note: A 30 day period to cure the breach will be triggered for most noncompliance issues prior to initiating the contract termination process. If the noncompliance issue involves endangering the life, health, or safety of any person, the contract may be terminated orally followed by sending a written notification within three (3) business days.

Involuntary Termination of Residential Contract

Upon determination that the residential facility has failed to correct the noncompliance issue(s), the Residential Licensing Specialist (RLS) will:

1. Ensure the RLS Supervisor is aware of the concerns regarding the residential facility’s contract;
2. Work with other DCS Residential Licensing Unit (RLU) members to collect documentation regarding the concerns with the residential facility’s contract;
3. Participate in consultation with the DCS legal team and collectively make a recommendation regarding the facility’s contract;
4. Upon a decision to terminate the facility’s contract:
 - a. Work with the RLU to develop a plan for next steps,
 - b. Consult with field staff regarding the transfer process, including appropriate transition of DCS and probation youth and youth records (e.g., monthly reports), if applicable. See policy 8.38 Placement Changes for additional guidance, and
 - c. Monitor the facility’s progression throughout the contract termination process.
5. Staff with the RLS Supervisor as needed throughout the contract termination process; and

6. Upload all communication and documentation regarding the contract termination in the case management system.

The RLS Supervisor will:

1. Ensure the RLU Manager is aware of the concerns regarding the facility's contract;
2. Participate in consultation with the DCS legal team and collectively make a recommendation regarding the facility's contract;
3. Upon decision to terminate an facility's contract:
 - a. Work with the RLU to develop a plan for next steps,
 - b. Monitor the facility's completion of required actions, outlined in the Notice of Default and Notice of Termination of Contract, and
 - c. Monitor and assist the RLS with any needs related to the contract termination.
4. Participate in discussion with the RLU Manager and the DCS Deputy Director of Child Welfare Services or designee to determine if DCS will complete a final facility audit; and
5. Staff with the RLU Manager as needed throughout the contract termination process.

The RLU Manager will:

1. Provide notification to the DCS Deputy Director of Child Welfare Services or designee regarding the concerns discovered and continue communication throughout the contract termination process;
2. Request DCS legal consultation to determine next steps;
3. Participate in consultation with the DCS legal team and collectively make a recommendation regarding the facility's contract;
4. Upon a decision to terminate the facility's contract:
 - a. Notify the Assistant Deputy Director of Purchasing and Pricing or designee of the date the contract will terminate, whether an audit will need to be conducted, and what the facility will be doing with the records associated with the terminating contract, and
 - b. Inform the following DCS Deputy Directors to begin the notification process:
 - i. Child Welfare Services;
 - ii. Field Operations; and
 - iii. Juvenile Justice Initiatives and Support.
 - c. Work with the RLU to develop a plan for next steps,
5. Participate in discussion with the DCS Deputy Director of Child Welfare Services or designee, Deputy Director of Purchasing and Pricing or designee, and the RLS Supervisor to determine if DCS will complete a final facility audit; and
6. Monitor and support the RLU, as needed, throughout the contract termination process.

Note: If the residential license is relinquished by the facility, the Indiana Department of Health (IDOH) and Indiana Department of Homeland Security (IDHS) (i.e., fire marshal) must be notified.

The DCS Deputy Director of Child Welfare Services or designee will:

1. Review documentation regarding the termination of the facility's contract and discuss next steps with the RLU;
2. Participate in consultation with the DCS legal team and collectively make a recommendation regarding the facility's contract;

3. Provide the Notice of Termination of Contract (outlined below) to the DCS Director for final approval and signature upon a decision to terminate the facility's residential contract;
4. Send the Notice of Termination of Contract via email to the facility upon approval and signature from the DCS Director;
5. Ensure the RLU and the DCS Contracts Division receive a copy of the Notice of Termination of Contract; and
6. Staff with the RLU to determine if DCS will complete a final facility audit.

The DCS legal team will:

1. Provide consultation to the RLU and review documentation to determine if sufficient grounds exist for a notice of default to be issued;
2. Collectively make a recommendation regarding the facility's contract;
3. Upon decision to terminate the facility's contract, send a default notice to the facility. This notice should include the following:
 - a. Findings,
 - b. Required action by the facility and request for supporting documentation,
 - c. Timeframe for facility's response, and
 - d. DCS contact information to send supporting documentation.
4. Continue communication with the facility and the RLU throughout the cure of breach process;
5. Upon response from the facility, review the response with the RLU and the Deputy Director of Child Welfare Services or designee and determine if the action taken by the facility is satisfactory. The following outcomes will occur:
 - a. If the action is not deemed satisfactory, the DCS legal team will allow for additional time, request further corrective action(s), or continue with the contract termination process and send a Notice of Termination of Contract to the facility, or
 - b. If the action taken by the facility is satisfactory, the breach will be cured and the contract will remain in effect with or without further supervision from the RLU.

The DCS Director will:

1. Review the Notice of Termination of Contract; and
2. Provide final approval by signing the Notice of Termination of Contract to terminate the facility's residential contract.

Facility Requests to Terminate Residential Contract

Upon notification or receipt of a request to terminate the contract from the facility, the process of determining whether to allow for the termination of the contract will begin.

The RLS will:

1. Ensure the RLS Supervisor is aware of the facility's request to terminate its contract;
2. Review the facility's request to determine steps the facility plans to take to complete the contract termination process (i.e., identified youth who will need to be moved, monthly reports sent to DCS, notification to other parties), if request is granted;
3. Participate in consultation with the DCS legal team and other RLU members to determine next steps:
 - a. Consult with field staff regarding the transfer process, including appropriate transition of DCS youth and youth records (e.g., monthly reports), if applicable. See policy 8.38 Placement Changes for additional guidance, and

- b. Monitor the facility's progression throughout the contract termination evaluation process.
4. Staff with the RLS Supervisor as needed throughout the contract termination evaluation process; and
5. Upload all communication and documentation regarding the contract termination in the case management system.

The RLS Supervisor will:

1. Ensure the RLU Manager is aware of the facility's request to terminate its contract;
2. Participate in consultation with the DCS legal team and other RLU members to determine next steps:
 - a. Monitor the facility's progression throughout the contract termination evaluation process, and
 - b. Monitor and assist the RLS with any needs related to the contract termination if request to terminate was granted by DCS.
3. Participate in discussion with the RLU Manager, Assistant Deputy Director of Purchasing and Pricing or designee, and the DCS Deputy Director of Child Welfare Services or designee to determine if DCS will complete a final facility audit; and
4. Staff with the RLU Manager as needed throughout the contract termination evaluation process.

The RLU Manager will:

1. Notify the DCS legal team of the facility's request to terminate its contract and continue communication with the legal team throughout the evaluation process;
2. Notify the Assistant Deputy Director of Purchasing and Pricing or designee of the date the contract will terminate, whether an audit will need to be conducted, and what the facility will be doing with the records associated with the terminating contract;
3. Inform the following DCS Deputy Directors of the facility's request to terminate its contract, and determine who will notify the appropriate DCS staff:
 - a. Child Welfare Services,
 - b. Field Operations, and
 - c. Juvenile Justice Initiatives and Support.
4. Consult with field staff and the facility, as needed throughout the process;
5. Participate in discussion with the DCS Deputy Director of Child Welfare Services or designee, Assistant Deputy Director of Purchasing and Pricing or designee, and the RLS Supervisor to determine if DCS will complete a final facility audit; and
6. Monitor and support the RLU, as needed, throughout the contract termination evaluation process; and

Note: If the residential license is relinquished by the facility, IDOH and IDHS (i.e., fire marshal) must be notified.

DCS Deputy Director of Child Welfare Services or designee will:

1. Review documentation regarding the facility's voluntary contract termination request;
2. Participate in consultation with the DCS legal team and the RLU to discuss next steps;
3. Inform the DCS Director of the facility's voluntary contract termination request; and

4. Participate in discussion with the RLU to determine if DCS will complete a final facility audit.

The DCS legal team will:

1. Review the facility's written request to terminate contract and work with the RLU to determine next steps;
2. Provide a response to the facility, which includes:
 - a. Reason for termination of contract,
 - b. Date contract termination becomes effective,
 - c. Notification that the facility has 90 calendar days after the service was provided or cost incurred to submit all outstanding invoices,
 - d. Notification of ongoing three (3) year duty to maintain documentation pertaining to all costs incurred under the contract, and
 - e. Notification of an upcoming audit, as deemed necessary.
3. Review a residential contract request from an facility that has previously requested to terminate its contract early and determine if the facility should receive a new residential contract.

LEGAL REFERENCES

- [IC 5-11: Accounting for public funds](#)
- [IC 31-27-6-15: Records regarding children](#)
- [IC 31-27-2-5: Monitoring of licensed entities](#)

RELEVANT INFORMATION

Definitions

- N/A

Forms and Tools

- Notice of Termination of Contract – Provided by the RLU

Related Policies

- [8.38 Placement Changes](#)
- [17.07 Residential License Revocation](#)