

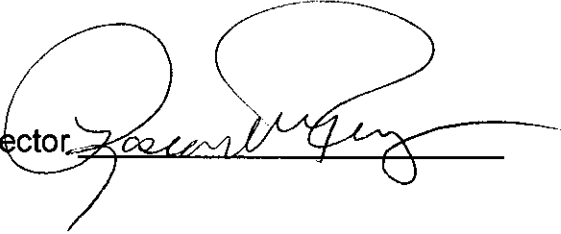
POLICY CLARIFICATION REQUEST FORM

REGIONAL OR DIVISION USE ONLY

Regulation Title/Chapter: Chapter 3140 Planning and Financial Reimbursement Requirements for County Children and Youth Social Service Programs Regulation: Chapter 3140.21 (e) (1)	Date: 07/09/2010 Request Prepared By: Roseann W. Perry
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Issue: (Summarize issue as briefly as possible. Attach supporting documentation.)

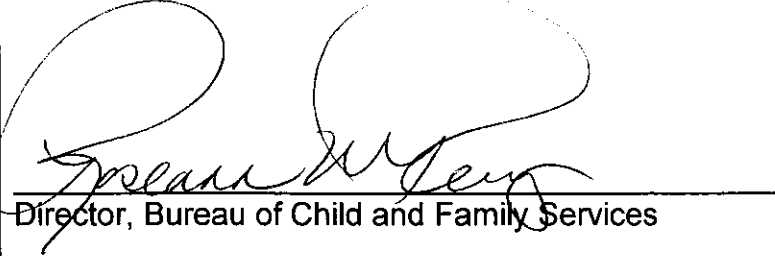
The attached correspondence was received from the Pennsylvania Council of Children, Youth and Family Services requesting clarification on the criteria for Community –Based Residential Services classification.

Bureau Director 

BUREAU OF COUNTY CHILDREN & YOUTH PROGRAMS ONLY

Date: 10/19/2010	Response Prepared By: Roseann Perry
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See Attached.


 Director, Bureau of Child and Family Services

Date: 12/7/10

cc: Cathy Utz
 Thomas Diehl
 Regional Children & Youth Directors
 Division Directors

NEXT STEP: Regions disseminate copies of this clarification to affected agencies.

This policy clarification addresses concerns regarding the determination of residential programs by OCYF regional offices in issuing licenses as either "Community Based" or "Residential", the latter being invoiced under the Institutional Major Service Category. The policy clarification request questions the criteria being reviewed and utilized by regional offices in making classification decisions about facilities.

"Community Based" by definition under Chapter 3140.21 (e) (1) is a "Twenty-four hour per day placement of a child in a non-secure facility which serves no more than 25 children. Basic services of the community, including the public school system, recreation and employment, shall be used as a part of the facility's program."

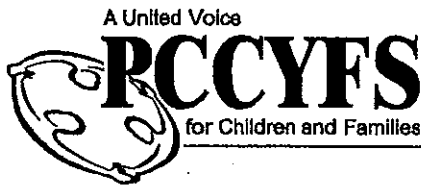
Beyond the licensed capacity of a facility, there are a number of areas within the programming that would define the facility as either community based or institution. While the public school system is the first community service identified, it is neither the primary factor nor given any higher weight. Education is a key component in programming for youth in out of home care and has always been one factor in the consideration of placement of youth in a facility as well as the classification of a facility as community based or institution. With the passage of the Fostering Connections Act, focus on education will be increased, particularly by county agencies as they plan for ensuring the educational stability of youth in out of home care. As education relates to defining a facility as community based or institutional, there are a number of facts that should be gathered – how is education provided for youth in placement at the facility, who is the educational provider, do youth at the facility have the capability to attend a public school and when/how is that educational placement assessment made?

In addition to obtaining and assessing information about education, other areas that are reviewed in relation to community involvement include:

- where children attend church and other religious activities
- how recreation is provided (i.e. YMCA memberships, movies, library, scouts etc.)
- do youth from the facility obtain jobs within the community or complete community service hours through work at community sites
- do residents attend support meetings (i.e. NA/AA/Al-Anon meetings) in the community
- where are medical services provided
- do residents access mental health services at community based sites

There is not one question or factor that is given any more consideration than others and there is not a percentage calculation that regional office staff are looking for in making that determination.

Program descriptions for facilities are provided at the time a facility is initially licensed and updated descriptions are obtained during annual inspections. During annual licensure visits, regional office staff will be reviewing and monitoring the implementation of the program description. Based on file reviews and interviews with residents and staff, OCYF staff may ask further questions or seek further clarifications as to practice should there be concerns that a facility, or all facilities within an agency, are functioning as a self-contained unit rather than within the context of the submitted program description. Regional office staff will review their concerns and findings with the Agency Director so that the opportunity for further discussions and clarifications can occur prior to a reclassification of a facility from Community Based to Institution.



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POLICY CLARIFICATION REQUEST

Date: July 9, 2010
To: Roseann Perry, OCYF Bureau Director
From: Bernadette M Bianchi, PCCYFS
Re: Criteria For Community-Based Residential Service Classification

On behalf of the many affected and potentially affected provider member agencies, the Pennsylvania Council of Children, Youth and Family Services (PCCYFS) is requesting a written policy clarification regarding the criteria currently being used by DPW/OCYF when conducting Annual Inspections and Licensing Reviews of agency congregate care programs to determine classification as a residential community-based or residential institutional.

Background: Congregate care programs which had been previously classified as Community-based Residential Services by DPW/OCYF and which were reimbursed at a rate of 80% have been re-classified as Institutional Residential Services, and are now reimbursed at a rate of 60%. Other than presenting that there was a prior classification error, OCYF has offered no explanation of what criteria have changed or have been reinterpreted to result in the change in program classifications and reimbursement rates.

Agencies believe that the number of referrals they receive from county agencies is related to the percentage of reimbursement received for those services, and are concerned that utilization will decrease as a result of the unexpected and unexplained reclassification of programs. Without clarification of criteria used to reclassify to lower-reimbursed service category, providers cannot consider possible program modifications to meet criteria as a Community Residential Service. Providers can appreciate OCYF wanting to "clean things up" but in doing so, there is a need to address inclusionary communications and unintended consequences.

Issue: Per the Public Welfare Code, the requirements for Community residential service and group home service are: *"Twenty-four-hour per day placement of a child in a non-secure facility which serves no more than 25 children. Basic services of the community, including the public school system, recreation and employment, shall be used as a part of the facility's program"*.

In order to promote the uniform and fair application of new/revised/revisited regulatory interpretation by OCYF field personnel in the various regions across the state, the new regulatory interpretation which is driving programmatic reclassifications should be committed to writing and shared with private service providers. The absence of open discussion with providers and/or counties prior to this effort to re-classify facilities has created confusion and concern. Inconsistencies in opportunity for agency staff to address this change in classification with regional OCYF staff have also been shared by providers

Regulatory language merely states that basic services of the community shall be part of the community residential service facility's program. While specifically mentioning that basic services of the community, including the public school system, recreation, and employment shall be used as **part of the facility's program**, nowhere in regulation or in previously issued DPW policy clarifications is there specificity as to a measurable or quantifiable level of community services necessary to distinguish the classification of community residential service from that of an institutional residential service.

Additional specific questions posed to support detailed clarification of policy include:

Overall process issues

1. The "rolling" application of this change across affected providers as connected to the licensing timeframes distorts the market as some programs present opportunity for higher reimbursement rates to counties while the percentage changes for others. What is the rationale for this?
2. The inconsistencies within an agency as one of their facilities is currently affected, while another similar program in another region is not. Are regions using consistent criteria?
3. The criteria cited in the policy clarifications 3140-03-05 and 3140-04-03 appear to allow for educational alternatives to a public setting if warranted. This consideration does not appear to be used as a standard in this reclassification process.
4. While the regulations have not changed, the environment certainly has since the 2003 and 2004 clarifications were issued. An updated, coordinated and widely circulated clarification is requested.
5. Has OCYF identified the population of potentially affected providers and is there a listing of already affected providers being maintained?

Consistency in application and interpretation across all regions

1. The potential impact this reclassification may have on utilization by counties is a concern. What are the projections made by OCYF?
2. The potential impacts on budget preparation and contracting between providers and counties given the effective dates, submission of fiscal materials and contract execution is a concern. What guidance is available through OCYF?
3. What guidance is being offered/direction given to regional OCYF staff to ensure that reclassification criteria is being consistently applied across regions?
4. Is weighted consideration given to enrollment in a public school setting as the primary criteria for classification as a community-based program? If so, must all residents attend a public school setting?
5. Is educational placement considered on an equal basis with recreational activity opportunities – sports teams, scouts, etc. – and employment opportunities in the community? If so, does the involvement of each youth in residence need to be documented on all three levels, or at least one, or for the majority of residents? What is the bottom-line criteria? Or, is intent and utilization of such community options whenever appropriate and possible as "part of a facility's program" sufficient reflecting the current population of youth in care?

6. Is consideration being given to the need for educational remedial attention, specific efforts to address truancy issues and/or segregation of youth in the public school setting as valid reasons for not having youth in a public school setting even though they may be involved in recreational and or employment opportunities in the community? How is this consistently evaluated and weighted?
7. Is there recognition or/differentiation made by OCYF that within on-grounds educational programs which utilize school district teachers, curriculum and supplies, students are in fact officially enrolled as students within that school district for purposes of payments, credits, access to extra-curricular activities and graduation?

Conversations between PCCYFS providers and the Northeast OCYF Regional office staff related to the issue ended with an implied threat to have BFO called to complete an audit of provider's programs to determine if the criteria for federal funding was being met. Rather than this punitive option as a response to provider's concerns regarding this change in interpretation, PCCYFS is respectfully asking for clarification of the criteria used and current interpretation of policy.

Given the timing of this request for policy clarification and the start of the new school year approximately 7 weeks away, we are asking for an expedited response to this request