



CDSS

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CCLD INFORMATION RELEASE NO. 2008-03

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Initiated by CCL

TO: CHILDREN'S RESIDENTIAL PROGRAM STAFF

SUBJECT: **STRIP SEARCHES OF CHILDREN IN OUT OF HOME CARE**

Background

In response to a request for policy interpretation regarding the issue of “skin” or “strip” searches conducted on children in out of home care, this policy clarification supersedes all other policy interpretations regarding this subject matter. This includes the California Department of Social Services (CDSS) memorandum issued by Deputy Director Fred Miller dated March 12, 1992. This policy clarification shall not apply to Community Treatment Facilities.

Children's Personal Rights

The personal rights afforded to children in care are found within Welfare and Institutions Code (W&IC) Section 16001.9 and are promulgated into Title 22 licensing regulations for each children's residential licensing category. The following rights are applicable to this issue:

- “To live in a safe, healthy, and comfortable home where he or she is treated with respect....” (W&IC 16001.9(a)(1))
- “To be free from physical, sexual, emotional, or other abuse, and corporal punishment.” (W&IC 16001.9(a)(2))
- “To be free from unreasonable searches of personal belongings.” (W&IC 16001.9(a)(21))

The following Title 22 licensing regulations are applicable to the personal rights of children in out of home care facilities:

- Group Homes: Regulation 84072
- Foster Family Homes: Regulation 89372
- Small Family Homes: Regulation 83072

- Transitional Housing Placement Programs: Regulation 86072
- Certified Family Homes: Regulation 83072

CCLD Policy

“Strip search” is defined as conducting a search which requires a youth to remove **all** of his or her clothing including underwear. Strip search is further defined as manipulating underwear in any manner for the visual inspection of the breast, buttocks, or genitalia for the purpose of discovering drugs, weapons, or other items.

Strip searching youth in out of home care by facility staff is prohibited unless authorized by court order. Strip searches authorized by court order are limited to the youth identified in the order, the party authorized by the court to conduct the search, and parameters outlined in the order. If strip searches are conducted on any youth in care pursuant to a court order, the facility’s policy and procedures regarding the conduct of strip searches must be expressly stated in the facility’s plan of operation and included in the youth’s admission agreement. A copy of the court order authorizing strip searches must be maintained in the specific child’s file. Any changes made to the facility’s plan of operation pertaining to a court ordered strip search, will be subject to licensing agency approval.

Procedures

If a Licensing Program Analyst (LPA) determines that a licensee is in violation of the CDSS’ strip search policy, the LPA shall cite a personal rights violation using the applicable regulations for the facility type as noted above. The plan of correction must state that strip searches stop immediately. The plan of correction must be developed jointly between the facility representative and the LPA.

Licensing Program Managers are advised to discuss this policy change outlined in this memo with LPAs. Further, LPAs shall inform providers of the policies outlined in this memo during evaluation visits.

If you have any questions regarding this memo, please contact Thomas Stahl, Chief of the Policy Development Bureau, at (916) 322-5528.

Sincerely,

Original signed by Jo Frederick

JO FREDERICK
Deputy Director
Community Care Licensing Division