

Emergency Rule

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 73—Child Placing Agencies**

EMERGENCY AMENDMENT

13 CSR 35-73.035 Staff Qualifications and Requirements. The division is amending sections (1)-(8).

PURPOSE: This emergency amendment is to ensure that the language of the rule is consistent with current practices, and to incorporate the requirements of House Bill 557 (2021).

EMERGENCY STATEMENT: Section 210.493, RSMo, of House Bill (HB) 557 (2021) authorizes the Department of Social Services to promulgate regulations, including emergency regulations, to implement new requirements for background checks of officers, managers, contractors, volunteers with access to children, employees, other support staff and owners of Licensed Residential Care Facilities (LRCF), License-Exempt Residential Care Facilities (LERCFs) and Licensed Child Placing Agencies (CPAs). The background checks are being conducted to help ensure that certain individuals who are associated with these facilities do not have a record of criminal conduct or substantiated incidents of child abuse or neglect which may pose a risk to the children served at these facilities. The background checks will include a finger-print based check of the individual’s criminal record, the sexual offender registry, the Family Care Safety Registry, the Central Registry and registries of other states where the individual resided. HB 557 included an emergency clause which declared HB 557 to be an emergency act within the meaning of the Missouri Constitution because immediate action is necessary to protect children, and it was necessary for the immediate preservation of the public health, welfare, peace and safety. The implementation of the background checks and the ability of DSS to deny or revoke a license to operate a child placing agency on that basis as required in this regulation will immediately enable the Department to conduct background checks and to determine whether individuals are eligible for employment or presence at these institutions. This regulation is part of a series of regulations which establish the general principles governing the implantation of all of the regulations governing licensed Child Placing Agencies and Residential Care Facilities in Missouri. This includes the requirements for conducting the required background checks required in section 210.493 RSMo. The Department of Social Services has determined that promulgation of this regulation on an emergency basis is necessary to address the danger to public health, safety and/or welfare of children in Missouri identified by the Missouri General Assembly. The Department of Social Services therefore has a compelling governmental interest to promulgate this section on an emergency basis. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The Department of Social Services believes that this emergency amendment is fair to all interested persons and parties under the circumstances. The Department of Social Services published a draft of this emergency amendment on its website and solicited feedback from the public and stakeholders through e-mail and at public meeting held on August 5, 2021. This emergency amendment was filed September 17, 2021, becomes effective October 1, 2021, and expires March 29, 2022.

(1) Employee Qualifications. The agency shall employ staff who are qualified by education, training, and experience for their assigned responsibilities. A current employee who has qualified for a position under the previous rule and is serving in that position shall be exempt from meeting any increased requirements defined by these rules. **Each individual associated with the agency who is required to**

submit to a background check pursuant to section 210.493 RSMo and 13 CSR 35-71.015 must also successfully complete the background check and be found eligible by the division for employment or presence at the licensed child placing agency.

(2) Administrative Personnel.

(D) The administrator’s responsibilities include:

1. Developing, implementing, and maintaining policies and procedures for program and fiscal operation under the direction of the governing board **and maintaining compliance with all applicable requirements of federal and state law, including the background check and eligibility requirements of section 210.493, RSMo and 13 CSR 35-71.015;**
2. Keeping the governing board informed of the program and management of the agency;
3. Interpreting and implementing recognized standards for child welfare services;
4. Ensuring that the agency achieves and maintains compliance with the requirements of the licensing rules;
5. Employing, evaluating and discharging staff members, in accordance with the agency’s established personnel policies; and
6. Ensuring the maintenance of current client’s records and statistics.

(3) Supervisor of Placement Services.

(B) Supervisors of placement services are required to submit to background checks and be found eligible by the division for employment or presence at the licensed child placing agency pursuant to section 210.493, RSMo and 13 CSR 35-71.015.

(4) Professional Personnel.

(B) Professional staff who perform social work tasks, counseling with children and their families, therapeutic services, or planning of services for children and their families, shall have a master’s degree in social work, psychology, counseling, or a closely related clinical field from an accredited college **or university**. Professional staff may have a bachelor’s degree in social work, psychology, counseling, or a related area of study from an accredited school if s/he is under the direct supervision of a qualified supervisor of placement services (13 CSR 35-73.035(3)).

(E) Professional personnel are required to submit to background checks and be found eligible by the division for employment or presence at the licensed child placing agency pursuant to section 210.493, RSMo and 13 CSR 35-71.015.

(5) Contracted Personnel.

(E) A file shall be maintained for each contracted personnel which includes:

1. A copy of the signed contract;
2. Verification of education and experience;
3. Verification of character references from three (3) persons, unrelated to the staff member;
4. Verification of employer references for the past five (5) years and a history of any previous employment in child care settings;
5. A copy of the job description signed by the contractor;
6. Reports of initial and subsequent biennial physical examinations;
7. Results of annual checks of the Child Abuse and Neglect Central Registry Unit (CA/N CRU) Checks;
8. Copies of an annual performance evaluation;
9. *[Results of the annual criminal records check]* **Documentation that each individual associated with the agency who is required to submit to a background check pursuant to section 210.493, RSMo and 13 CSR 35-71.015 has successfully completed the background check and is found eligible by the division for employment or presence at the licensed child placing agency; and**

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10. Documentation of orientation and annual staff training.

(6) **Students and Interns.**

(A) **Interns, [G/graduate students, and [or undergraduate] students** in a field work placement at the agency shall be subject to the general personnel policies of the agency, but shall not be considered or used as substitutes for employed staff. A written plan for using students will include:

1. A plan for the selection, orientation, training, assignment and evaluation of students;
2. A description of what services the student is responsible for and what arrangement the agency has for supervising the students;
3. A signed statement of their understanding of confidentiality;
4. A copy of the written plan shall be given to each student, his/her school, and to the supervising staff members; and
5. A plan for coverage of caseload in student's absence.

(B) Interns, graduate students, and students are required to submit to background checks and be found eligible by the division for employment or presence at the licensed child placing agency pursuant to section 210.493, RSMo and 13 CSR 35-71.015.

(7) **Clerical Staff [Shall Be Employed as Needed].**

(A) Clerical staff shall not supervise or assist in the care of children without being qualified according to these rules.

(B) Clerical staff shall sign a statement of their understanding of confidentiality.

(C) Clerical staff shall submit to background checks and be found eligible by the division for employment or presence at the licensed child placing agency pursuant to section 210.493, RSMo and 13 CSR 35-71.015.

(8) An agency shall not be wholly dependent upon the use of volunteers to ensure the provision of services. If an agency uses volunteers as part of its program of services, the agency shall have written policies which include:

(G) Procedures for monitoring and evaluating volunteer activities;

(H) Maintaining a file for each volunteer, who works directly with children including applications, verification of CA/N CRU and *[criminal records]* **background** checks, and task assignments and annual evaluations;

(I) Procedures for observing professional ethics and confidentiality **of records and information;**

AUTHORITY: sections 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021. This rule originally filed as 13 CSR 40-73.035. Original rule filed Feb. 6, 1997, effective July 30, 1997. Moved to 13 CSR 35-73.035 and amended: Filed Sept. 7, 2018, effective April 30, 2019. Emergency amendment filed Sept. 17, 2021, effective Oct. 1, 2021, expires March 29, 2022. An emergency amendment and a proposed amendment covering this same material will be published in the Nov. 1, 2021, issue of the Missouri Register.

PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.