




STATE OF WASHINGTON
DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES
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August 5, 2021

TO: All Field Operations

FROM:  Kwesi Booker, Assistant Secretary Field Operations

SUBJECT: Temporary Order in D.S. Lawsuit Revised 8.4.2021

On June 29th, 2021, an order was entered by the U.S. District Court in response to Plaintiffs' motion for preliminary injunction in the D.S. lawsuit, which relates to the use of out of state and exceptional placements, including hotels and offices for children and youth under the age of 18.

The form of this order was mutually agreed upon between DCYF and the Plaintiffs. The order is currently in effect and requires the following, related to youth in DCYF custody experiencing placement exceptions or night to night foster placements:

1. No youth may spend overnight hours (between 10 p.m. and 6 a.m.) in cars, not including transport time. Youth should be informed where they are being placed prior to transport. If the youth is transported to a placement and refuses to enter the placement after staff engage that youth for one hour, staff must notify the on-call supervisor and area administrator and take the youth to a hotel.
2. Subject to the availability of hotel space appropriate to their needs, no youth may spend overnight hours between 10 p.m. and 6 a.m. in DCYF offices. If a youth returns to or enters DCYF custody between these hours, efforts must be made to locate and provide them with a hotel room to sleep for the remainder of the night.
 - Plan concurrently for placement and hotel. If placement cannot be located after two hours and placement is not imminent, the worker will notify the on-call supervisor and arrange for the youth to be taken to the identified hotel.
 - If a hotel is not available or if an emergency arises, the youth must be provided a pillow, blanket, and cot or equivalent bedding.
3. For hotel stays occurring prior to November 1, 2021, youth in DCYF custody with hotel stays of five or more consecutive nights must be provided the same hotel and the same room from night to night beginning on the sixth consecutive night. The youth will be permitted to choose whether to leave some or all of their belongings in their rooms during the day. If DCYF has identified a placement for the youth for the following night, the youth can be checked out of the hotel.

4. If a youth is required to spend any overnight hours in an office or car, or if the youth refuses a placement, an incident report will be generated and notice of the incident provided to the youth's attorney or GAL/CASA. For youth without an attorney or GAL/CASA, notice will be provided to Disability Rights Washington. *See attached Guidance for Documenting Exceptional Placements and Night-to-Night Stays in AIRS for documentation and reporting details.*
5. Within two days of a youth's refusal of a foster care placement, a Family Team Decision Meeting (FTDM) shall be conducted, with invitations to the youth, their attorney and GAL/CASA and the youth's family (unless the youth objects based on specific safety concerns) to seek resolution. *See attached DCYF Guidance for Implementation of D.S. Temporary Order for additional details.*
6. For any youth placed for five consecutive nights in an office, hotel or a combination of office, hotel and night to night foster placement, a Shared Planning Meeting (SPM) must be scheduled for the earliest date possible but no later than three business days after the fifth night. The SPM must include the youth, youth's attorney or GAL/CASA and youth's family (unless youth objects based on specific safety concerns). SPMs will continue to be held every 10 days after the initial meeting until the youth is reunified with family or long-term placement is identified. SPMs are not required if the youth has rejected multiple placements, DCYF determines and documents that the next SPM would not be productive, and the youth and youth's attorney are notified and do not object. *See attached DCYF Guidance for Implementation of D.S. Temporary Order for additional details.*
7. DCYF will explore ways to lessen the impacts on youth in exceptional placements by meeting their dietary needs, reviewing training of DCYF staff supervising them, and providing adequate support and programming. DCYF shall meet the needs of youth in placement exceptions and night to night placements including planning for reasonable accommodations and crisis response. Planning for reasonable accommodations includes, but is not limited to, addressing developmental needs, health and mental health conditions, physical limitations, and dietary restrictions. *See attached DCYF Guidance for Implementation of D.S. Temporary Order for additional details.*
8. When youth are in hotels or offices, healthy food and beverages must be available and appropriate to the youth's dietary needs. This includes such things as fresh fruit and vegetables, fruit cups, string cheese, healthy beverages, etc. One staff must be designated responsibility to check stock and replenish the supply as needed. The office must also provide a means for afterhours staff to pay for additional supplies (grocery store gift cards for example), in order to meet a specific child's dietary needs.

9. Youth in placement exceptions or night to night placements must be transported to schools, or provided a quiet space and staffing to support engagement in online school and in accordance with the youth's IEP, as applicable. When youth are not in school, they shall be provided with age-appropriate activities. *See attached DCYF Guidance for Implementation of D.S. Temporary Order for additional details.*

In addition to the actions described above, DCYF is required to develop a plan by September 1, 2021, outlining the cessation of the use of hotels, motels or offices for youth by November 1, 2021.

Additional guidance regarding implementation of the requirements can be found in the attached documents. Questions can be addressed to Steve Grilli at steven.grilli@dcyf.wa.gov or Barb Geiger at barbara.geiger@dcyf.wa.gov.