

110 CMR 1.00: PRINCIPLES AND RESPONSIBILITIES OF THE DEPARTMENT OF CHILDREN AND FAMILIES

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1.01: Statement of Philosophy

The policy of the Commonwealth of Massachusetts and therefore of the Department of Children and Families (Department) is to strengthen and encourage family life so that every family can care for and protect its children. To that end, the Department will make every reasonable effort to encourage and assist families to use all available resources to maintain the family unit intact. However, for so long as a family cannot or does not provide the necessary amount of care and protection for its children, the Department will intervene to protect the right of children to sound health and normal physical and mental development. These dual obligations - to protect children and yet simultaneously to respect the right of families to be free from unwarranted state intervention - present an inherently difficult balance to strike. Yet, this is precisely the Department's mandate. The effort to balance these two basic obligations, above all others, shall govern the Department's activities.

1.02: Principles of Service

In delivering services to children and families the Department shall:

- (1) seek to ensure the safety of children;
- (2) recognize that, consistent with the need to ensure the safety of children, the family is the best source of child rearing, and so require that state intervention into a family unit be used only when it is clearly needed to protect a child;
- (3) reflect the understanding that every child needs stability and permanency;

(4) recognize that substitute care is a temporary solution, and require the Department and the parent(s) to direct their efforts toward reunification of child(ren) and parent(s). As soon as it is determined that reunification is not feasible, the Department shall take swift action to implement another permanent plan, such as adoption or guardianship.

The Department recognizes that it operates not in isolation but in partnership with families. The Department seeks to assist parents in meeting their parental responsibilities, among which are:

- (5) to maintain meaningful contact with the child(ren);
- (6) to seek and utilize appropriate services to assist family reunification;
- (7) to make good faith efforts to participate with the Department in developing and implementing a service plan;
- (8) to maintain contact with the Department, especially concerning any change of address;
- (9) to pay reasonable sums toward the support of the child(ren) within the limits of their ability to pay.

1.03: Goals for Children in Substitute Care

When parents are unable to care for their children in their own homes the Department is obligated to provide substitute care. These children come to the Department either through a court order or through a parent's voluntary request for substitute care. In either case the Department's goal is to alleviate or mitigate the causes necessitating placement; or in those circumstances where a child is unable to return home, to provide the child with a permanent new home in a timely fashion.

1.04: Courteous and Prompt Service

Each individual served by the Department shall receive courteous treatment at all times, and each such individual's personal dignity shall be respected. Services shall be provided as promptly as possible.

1.05: Fair, Just, and Equitable Provision of Services

The Department's services shall be provided on a fair, just, and equitable basis.

1.06: Special Provisions Relating to Linguistic and Cultural Minorities

The Department recognizes the special concerns of linguistic and cultural minorities in the Commonwealth. The Department shall be responsive to issues of ethnic and cultural diversity by utilizing social workers who are attuned to ethnic and cultural values and traditions. The Department shall ensure that both the services it provides directly and those it provides through providers or contracts are culturally sensitive to the various minority groups in the client population. In addition, the Department shall make all reasonable efforts to ensure that communications with every client, whether written or oral, are made in a language, or in a manner, that the client can understand. This requirement shall be satisfied as follows:

- (1) The Department shall ensure that its social work activities are conducted by a social worker fluent in a language understood by the client. If such a person is unavailable, then the Department shall utilize an interpreter who can effectively communicate with the client.
- (2) Deaf persons for whom American Sign Language is the primary language are rightly considered as a special linguistic minority population, and the Department shall utilize qualified oral or Sign Language interpreters who can effectively communicate with a deaf client.

(3) The Department shall ensure that any written communications from the Department to a client are in a language or a manner of communication that is understood by the client.

(4) Whenever a client is unable to read in any language, communications shall be made orally.

1.07: Special Provisions Relating to Native Americans

(1) The Department recognizes the special concerns of Native Americans in the Commonwealth. Accordingly, decisions affecting Native Americans shall respect the unique values of Indian culture, whether or not the Indian child or family in question is a member of an Indian tribe as defined in 25 U.S.C. § 1903(8).

(2) The Department shall adhere to the provisions of the Indian Child Welfare Act (25 U.S.C. § 1901 *et seq.*). Where procedures or rights under Massachusetts law or regulation afford more protection than U.S.C. § 1901 *et seq.*, then the former procedures or rights shall apply.

1.08: Special Provisions Relating to Handicapping Conditions

The Department recognizes the special needs of handicapped clients. The Department shall make reasonable accommodations to ensure that its services, facilities, communications, and meetings are accessible to all handicapped persons. The Department shall make reasonable accommodations to clients who have impaired sensory (*i.e.* visual, auditory) skills, including but not limited to sign language, Braille, large print type, and TTD (telephonic telecommunication device). The Department shall be responsive to issues of handicapping conditions by utilizing social workers who are attuned to the special needs of handicapped persons.

1.09: Special Provisions Relating to Nondiscrimination

(1) No applicant for or recipient of Department services shall, on the ground of race, creed, color, religion, age, ancestry, marital status, sex, sexual orientation, language, disability, veteran status, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in connection with, any service, program, or activity administered or provided by the Department.

(2) 110 CMR 1.00 does not prohibit the Department from recruiting foster parents or adoptive parents from groups of persons of specific race, creed, color, religion, age, ancestry, marital status, sex, language, or national origin to permit the pool of available foster and pre-adoptive families to reflect the ethnic and racial diversity of the children needing placement in substitute care.

(3) The Department shall not deny to any person the opportunity to become an adoptive or foster parent, on the basis of the race, creed, color, religion, age, ancestry, marital status, sex, sexual orientation, language, disability, veteran status or national origin of the person, or of the child, involved; or delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color or national origin of the adoptive or foster parent, or the child, involved.

1.10: Special Provisions Relating to Incarcerated Parents

The Department recognizes the special efforts required to prevent permanent or irremediable separation of children from their incarcerated parents. Therefore, the Department shall make all reasonable efforts to work in cooperation with incarcerated parents to promote a healthy relationship with their children, and to amid permanent separation. The Department's efforts shall include regular visitation at the correctional facility, as well as the holding of case conferences and other consultations at the correctional facility.

1.11: Special Provisions Relating to Homeless Families

In accordance with the Department's established policy of maintaining the integrity of families, the Department shall make all reasonable efforts to serve homeless families. Ensuring that families remain together whenever possible is a primary goal in serving the homeless. The Department's efforts on behalf of a homeless family shall include efforts to provide access to facilities which allow a family to feed, bathe, and care for their children, and which provide meals and a safe place to sleep for the adults and children. The Department confirms its commitment to provide comprehensive information and referral services for homeless families at the local area office level. Since many factors can cause or contribute to homelessness (including unemployment, substance abuse, domestic violence, inadequate income, inadequate shelter, and natural disasters) the Department also confirms its commitment to a multi-disciplinary and possibly multi-department approach to service delivery to a homeless family. Lastly, the Department affirms its policy that poverty or homelessness are not *per se* indicative of child abuse or neglect; and that children should never be removed from their parents and placed into substitute care on the sole basis of homelessness of a family.

1.12: Special Provisions Relating to Refugees/Unaccompanied Refugee Minors

(1) The Department provides a range of social services to refugee families, in conjunction with the services of other departments (e.g. Transitional Assistance, Mental Health, etc.) and in cooperation with the Governor's Advisory Council for Refugees and Immigrants (GACRI) and the Massachusetts Office for Refugees and Immigrants (MORI). The Department offers refugees the full range of services described in 110 CMR . For services available to refugees beyond the social services offered by the Department (e.g. food stamps, SSI, ESL training, etc.) more information is available by contacting MORI directly, at 727-7888.

(2) The Department shall periodically offer training to its social work staff on the cultural and ethnic issues of those refugee populations which are statistically significant in Massachusetts.

(3) The Department operates an Unaccompanied Refugee Minors Program, which provides foster care and case management services to Indochinese (Vietnamese, Cambodian and Laotian) refugee children who arrive in Massachusetts unaccompanied by a parent or immediate relative. In every case the parents of such children are either deceased or of parts unknown. The intent of this program is to reunite such children with a member or members of their family. Services are provided to these minors by providers under contract with the Department. These providers are required to have a demonstrated ability to respond to the cultural and linguistic needs of the refugees they serve. The Unaccompanied Refugee Minors program is fully funded by the federal government through the Office of Refugee Resettlement. At present, a federal regulation requires that such children not be freed for adoption by the states. A proposed amendment to the federal regulation, to allow states to free such children for adoption, awaits enactment. The Department will adhere to the federal regulation in question.

1.13: Use of Commentaries

Commentaries are used throughout 110 CMR to clarify certain issues, concepts, or problems; as well as to give concrete examples of typical situations. The commentaries are intended to be illustrative, but they are *examples only*, and should not be read more broadly than the specific facts presented, nor to apply to fact situations different than those specifically described.

1.14: Future Changes

As 110 CMR go to press, several legislative, fiscal, or programmatic changes, which may be implemented over the next several months, are pending. As such changes are in fact implemented, 110 CMR will be revised, and substitute pages will be issued. In addition, several lists contained within 110 CMR (for example, list of antipsychotic drugs) will be revised as needed so that they continue to be up to date.

1.15: Severability

If any regulation or section, sub-section, sentence, clause, phrase or portion thereof is found to be invalid by a court of competent jurisdiction for any reason, said portion shall be deemed a separate, distinct, and independent provision, and the validity of the other regulations shall not be affected.

REGULATORY AUTHORITY

110 CMR 1.00: M.G.L. c. 18B, § 7(i).