

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HUMAN SERVICES
BUREAU OF HUMAN SERVICES LICENSING
Child Residential and Day Treatment Facilities (55 Pa.Code Chapter 3800)

Q/A - Regulatory Clarifications – July 2015

The clarifications and interpretations below will remain on the Department's web site until the information is included in the next updated Regulatory Compliance Guide (RCG).

Regulation: § 3800.16(d) – Reportable Incidents

§ 3800.16(d) - The facility shall orally report to the appropriate Departmental regional office and the contracting agency within 12 hours, a fire requiring the relocation of children, an unexpected death of a child and a child who is missing from the facility if police have been notified.

Question: Which phone number is to be used to make oral reports to the Department regarding fire requiring the relocation of children, an unexpected death of a child and a child who is missing from the facility if police have been notified?

ANSWER: For all oral reports to the Department regarding the emergency events listed above, the following phone number should be used: 1-866-503-3926.

This officially rescinds the Department's May 2015 Q/A interpretation of this regulation.

Regulation: § 3800.21 – Applicable Health and Safety Laws

§ 3800.21 - The facility shall have a valid certificate or approval document from the appropriate State or Federal agency relating to health and safety protections for children required by another applicable law, not to include local zoning ordinances.

Question: Does the Clean Indoor Air Act address e-cigarettes (also known as electronic cigarettes, vaporizers)?

ANSWER: Pennsylvania's Clean Indoor Air Act does not include e-cigarettes at this time and therefore, those devices are not prohibited. The Department of Health (DOH) has not issued a formal statement related to these devices, however, DOH encourages businesses to include e-cigarettes in their own tobacco-free policies since e-cigarettes are not currently

regulated by the FDA and can be harmful to residents, employees, and visitors.

Regulation: § 3800.32(g) – Specific Rights

§ 3800.32(g) - A child has the right to receive and send mail.

(1) Outgoing mail may not be opened or read by staff persons.

(2) Incoming mail from Federal, State or county officials, or from the child's attorney, may not be opened or read by staff persons.

(3) Incoming mail from persons other than those specified in paragraph (2), may not be opened or read by staff persons unless there is reasonable suspicion that contraband, or other information or material that may jeopardize the child's health, safety or well-being, may be enclosed. If there is reasonable suspicion that contraband, or other information that may jeopardize the child's health or safety may be enclosed, mail may be opened by the child in the presence of a staff person.

Question: Is it permissible for a facility to honor a judge's court order or an order from a referring entity (such as county or probation) to withhold mail or require that staff read the mail?

ANSWER: No; facilities cannot be permitted to follow these orders due to federal laws.

Question: Is it permissible for a facility to have a policy in place which limits who is allowed to send a resident mail?

ANSWER: No; facilities cannot limit who is allowed to send a resident mail.