

**STATE OF CONNECTICUT  
DEPARTMENT OF DEVELOPMENTAL SERVICES**

**Procedure No.:** I.G.PR.002  
**Subject:** Private Agency Vacating Licensed  
Residential Facilities  
**Section:** Contracted Services

**Issue Date:** March 1, 2002  
**Effective Date:** March 1, 2002  
**Revised Date:** October 28, 2003  
**Approved:** /s/Peter H. O'Meara/KdP

**A. Purpose**

To establish the procedures to be followed when private agencies determine there is a need to vacate from an existing licensed residential facility that the agency owns or leases under a capital lease or an operating lease arrangement.

**B. Applicability**

This policy will apply to all requests to vacate licensed residential facilities in order to relocate the residents. This policy applies to homes operated as licensed residential facilities that are owned by private agencies or are leased by private agencies from a landlord via a capital lease agreement, or an operating lease, and the licensed residential facility has room and board rates determined by the Department of Social Services.

**C. Definitions**

CLA (Community Living Arrangements): DDS-licensed community residences owned or leased by private provider organizations for individuals who have mental retardation and who need continuous supervision. Services are direct care and habilitative. These homes typically are for six or fewer individuals, although some homes may serve up to 15 people.

Private Residential Provider: Any person, organization, or corporation receiving funding from the Department of Developmental Services for the purpose of providing residential services to individuals with mental retardation. (*source:* adapted from DDS Regional Protocols, selection of private sector service providers dated 6/8/93).

Operating Lease: A lease between a tenant and landlord for a specified period of time meeting all of the legal requirements of a lease, and does not result in an ownership or transfer of title to the tenant agency at the end of the lease period.

Capital Lease: A lease between a tenant and landlord for a specified period of time meeting all of the legal requirements of a lease, and results in the transfer of the ownership and title to the tenant agency at the end of the lease period. In order to be considered a capital lease, specific generally-accepted accounting principle requirements must be met.

Licensed Residential Facility: Any facility licensed under CGS 17a-227-1 through 17a-227-22.

**D. Implementation**

Whenever a private agency determines it may be necessary to permanently vacate an existing CLA operated as a licensed residential facility in order to move residents of the facility to another residential facility or to another residential setting (licensed or unlicensed), the vacating of the existing licensed residential facility must be reviewed and approved by the Department of

Developmental Services. In determining whether the property will be vacated the department's decision will consider the compelling reasons for the relocation and the vacating of the licensed residential facility. Consideration may include but is not limited to any of the following conditions or circumstances:

Set 1: Circumstances Where The Home Is Suitable For Re-use:

When the home being vacated is structurally sound and suitable for re-use, the best possible outcome remains that the home is indeed re-used. Both the provider and region must make a strong pro-active commitment to ensuring the best long-term use of the state's resources. Typical circumstances where the home is suitable for re-use include:

1. The housing needs of the current residents can no longer be met in the current licensed residential facility. Example: the facility is not accessible to non-ambulatory people and one or more of the residents need, or are anticipated to need accessibility in the future *and* the facility cannot be appropriately made accessible and/or the landlord of the property if a rental property is unable/unwilling to adapt the facility.
2. Residential situations where a provider determines the residents are no longer in need of 24-hour supports and could live in a more independent, smaller setting, and the existing licensed residential facility cannot be utilized by other programs (DDS funded or non-DDS funded) that can "re-use" this property.

For the above situations, the agency and the region will look at the following options for a solution and document that a thorough attempt to reuse the home was made as follows:

- Provider or region compares the home to be vacated to potential matches on the Statewide Master Inventory of homes needing replacement. Written explanation required if no matches are found.
- All DDS regions assess suitability against remaining new development residential needs through the next fiscal year (i.e., up to 23 months out).
- Each DDS region contacts their local interagency contacts (e.g., DCF, etc.) to determine if this home is suitable for or can be "swapped" with that agency's development plans (e.g., if 2-story, use for DCF children; then "build/acquire" 1-story structure for DDS clients). Regions will document responses from all state and non-state sister-agencies.
- Each DDS region will assess whether this licensed home can be reused as a non-licensed setting for supported living clients where property costs would be funded through rent subsidy
- Provider will consider whether an overall reconfiguration of existing services is possible which might offer larger opportunity to maximize usefulness of existing array of properties. If not, region will explore whether other providers could reconfigure and take over this property in the process.

Set 2: Circumstances Where The Home Is Not Suitable For Re-use:

When the home being vacated is clearly not suitable for re-use, the region will inform the DDS central office representative of the review committee. Typical circumstances where the home is not suitable for re-use include:

1. The licensed residential facility is structurally unsound, has health and safety deficiencies and landlords have been non-responsive for one or more years to requests for needed maintenance

and repairs to the facility that are beyond the repairs and maintenance that are the tenant's responsibility, in accordance with the terms and conditions of the existing lease agreement.

2. There are serious safety issues such as the neighborhood no longer being safe, jeopardizing the safety of the residents and staff of the licensed residential facility.
3. The lease has expired and has not been renewed, and the landlord is unwilling to sign a new lease with the private agency after good faith negotiations have occurred, or negotiations were attempted by the private agency.
4. The landlord is unwilling to accept the allowable rent recognized by the Department of Social Services in determining the room and board rate applicable for the licensed residential facility.

In addition to the compelling reasons to vacate a licensed residential facility, in determining whether a facility can be vacated, there must be a written relocation plan that addresses the disposition and potential for re-use of the licensed residential facility that is being vacated. Strong consideration must be given to the long-term financial impact on the state's funding for the licensed residential facility to be vacated in conjunction with the additional costs to the state that result from the development of a replacement facility. That is, consideration must be given to the future additional cost the state will be subject to by the vacating, and/or replacing an existing facility with another licensed residential facility. To the extent the additional cost to the state can be offset by the equity realized from the sale of the vacated home being applied to the replacement facility, or being refunded back to the state, that financial offset can be a consideration to approve vacating a licensed residential facility.

The review process for requests to vacate a licensed residential facility will be conducted by a committee of three DDS staff, and a representative from DSS. The committee will consist of:

- ~ One DDS Central Office Representative,
- ~ One DDS Regional Representative from the Region the home is located,
- ~ One DDS Regional Representative from a Region where the home is not located,
- ~ One representative from the Department of Social Services Rate Setting and CON.

The committee will make its recommendation to the deputy commissioner for Family & Community Services. The deputy commissioner has the authority to override and disregard the committee's recommendation.

## **E. References**

Sections 17a-227-1 to 17a-227-22, inclusive, of the Connecticut General Statutes  
I.G.PO.002 Private Agency Vacating Licensed Residential Facilities

**F. Attachments**  
None