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# 2016 Tennessee Code

## Title 37 - Juveniles

### Chapter 5 - Department of Children's Services

#### Part 1 - General Provisions

### § 37-5-105. Powers and duties of commissioner.

**Universal Citation:** TN Code § 37-5-105 (2016)

The commissioner, or the commissioner's designee, has the following powers and duties in addition to such other powers and duties as may be specifically provided by law in this title or as otherwise provided by law:

**(1)** Select and recommend to the appropriate state officials the employment or transfer of all personnel required for the operation of the department, except, however, the transfer of any employees pursuant to this chapter or the initial organization of the new department pursuant to this chapter shall not result in any impairment, interruption or diminution of employee rights, privileges, salary, benefits, leave accumulation or employment; and further, such transfer of employees pursuant to this chapter or initial organization of the new department pursuant to this chapter shall not result in a contract employee supervising a preferred service employee or conducting a job performance evaluation for a preferred service employee;

**(2)** Recommend to the appropriate state officials the salaries and compensation of all officers and employees of the department;

**(3)** Make and adopt rules, regulations and policies for the government, management and supervision of state children's service agencies or facilities, and children's services; prescribe the powers and duties of the officers and employees thereof; and provide for the care of children served by the department; provided, however, that such rules shall be consistent with and subject to licensing approval authority of any other state agency that has responsibility for licensing or approval of any portion of program services or facilities provided by the department;

**(4) (A)** Publish, in accordance with the rules, regulations, policies and procedures of the state publication committee, an annual report on the operation of the department and the services and programs under its supervision by January 31 and furnish the report to the governor, members of the general assembly, other persons and relevant entities that may request the report such as the Tennessee council of juvenile and family court judges and the Tennessee commission on children and youth, and others as the governor may consider appropriate;

**(B)** Such annual report shall contain information regarding foster care services, including definitions, racial composition, and statutory or regulatory authority where appropriate as to the following:

**(i) Placement Information.** Total number of children in foster care by region and segmented by:

**(a)** Level of placement (I-IV);

**(b)** Placement type (department of children's services foster home, continuum contracts, pre-adoptive or adoptive, diagnostic shelter, emergency shelter, medical or surgical hospital, miscellaneous, specialized residential school, trial home visit);

**(c)** Average length of custody; and

**(d)** Number of department of children's services foster care placements currently available;

**(ii) Social Services Caseload Information.** Total social services case managers by region and segmented by:

**(a)** Case manager slots;

**(b)** Actual filled slots;

**(c)** Average salary;

**(d)** Average social services caseload; and

**(e)** Range of social services caseload;

**(iii) Legal Support by Region.** Total number of attorneys and paralegal staff:

**(a)** Number of attorney slots;

**(b)** Number of attorney filled slots;

**(c)** Number of paralegal slots; and

**(d)** Number of paralegal filled slots;

**(5)** Direct the placement of children in appropriate state programs or facilities, or contract programs or facilities, in conformity with constitutional, statutory or regulatory requirements;

**(6)** Assume general responsibility for the proper and efficient operation of the department, its services and programs. The commissioner may establish such divisions and units within the department as necessary for its efficient operation;

**(7)** Promulgate necessary rules and regulations to govern administrative searches and inspections of employees of the department, juveniles in the custody of the department and visitors to facilities of the department. Such rules shall provide guidelines and standards for the manner in which the searches authorized by this subdivision (7) shall be conducted;

**(8)** Promulgate rules and regulations concerning drug testing that are not inconsistent with the provisions of § 41-1-121;

**(9) (A)** Conduct investigations as deemed necessary to the performance of the commissioner's duties, and to that end, the commissioner shall have the same power as a judge of the court of general sessions to administer oaths and to enforce the attendance and testimony of witnesses and the production of books and papers;

**(B)** The commissioner shall keep a record of such investigations, stating the time, place, nature or subject, witnesses summoned and examined, and the commissioner's conclusions;

**(C)** In matters involving the conduct of an office, a stenographic report of the evidence may be taken and a copy thereof with all documents introduced kept on file at the office of the department;

**(D)** The fees of witnesses for attendance and travel shall be the same as in the circuit court, but no officer or employee of the institution under investigation shall be entitled thereto;

**(E)** Any judge of the circuit or chancery court, either in term time or in vacation, upon application of the commissioner, may compel the attendance of witnesses, the production of books or papers and the giving of testimony before the commissioner, by a judgment for contempt or otherwise, in the same manner as in the cases before a circuit or chancery court;

**(10) (A)** The commissioner shall have the authority to conduct or cause to be conducted any administrative hearings relating to any factual determinations that the department is authorized or required to make pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, or pursuant to any other hearing procedures required by law or that may be necessary to provide due process procedures for individuals affected by the programs administered by the department;

**(B)** The commissioner, or any officer or employee of the department upon written authorization from the commissioner, has the power to administer oath and affirmations, take depositions, issue subpoenas and require the production of documents and any books and records that may be necessary in the conduct of such hearings;

**(11)** Perform all duties and exercise all authority set forth in part 3 of this chapter, regarding community services agencies;

**(12) (A)** Establish a children's services advisory council having fifteen (15) members appointed by the commissioner to act in an advisory capacity on any matter within the jurisdiction of the department. Appointees to the council shall include, but not be limited to, representatives of local law enforcement, mental health professionals, local education agencies, juvenile court officials, social workers, health care providers, consumers of services such as parents, foster parents or family members of children who are or have been recipients of services from the department, child advocates, persons having specialized knowledge or experience and public and private agencies that provide services to children. The members of the council shall be appointed with a conscious intention of reflecting a diverse mixture with respect to race and gender. Each community services agency region shall be represented by at least one (1) individual on the council;

**(B)** The term of a member of the children's services advisory council shall be three (3) years with the terms staggered so as to replace no more than one third (1/3) of the members each year. Members of the council may be reappointed after their terms expire. Members of the council shall continue in office until the expiration of the terms for which they were respectively appointed and until such time as their successors are appointed. Vacancies occurring on the council by reasons of death or resignation shall be filled in the same manner as a regular appointment for the remainder of the unexpired term;

**(C)** Members shall be reimbursed for their actual expenses for attending meetings of the council. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter;

**(D)** The duties of the council shall be to advise the commissioner regarding issues pertaining to the purpose of the department and its work when requested by the commissioner. Annually, the council shall elect one (1) of its members to serve as chair of the council and one (1) member to serve as secretary. Minutes of each meeting shall be kept and sent to the commissioner. Any officer may be elected to consecutive terms;

**(13)** Establish, from time to time, committees composed of representatives from the public or private sectors, or both, for such purposes and durations as may be deemed appropriate or required by the commissioner. Members of such committees shall be reimbursed for their actual expenses for attending meetings of their respective committees. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter;

**(14) (A)** Establish and administer, jointly with the state treasurer, a scholarship program for the sole purpose of providing financial assistance to foster children wishing to pursue opportunities in higher education;

**(B)** The scholarship program established and administered pursuant to subdivision (14)(A) shall be funded from state appropriations and from such individual and corporate grants, donations and contributions as the commissioner shall solicit and receive specifically for such purpose;

**(15)** In consultation with the child sexual abuse task force established by § 37-1-603(b)(1), the child advocacy centers, the Tennessee council of juvenile and family court judges, the Tennessee commission on children and youth, the Tennessee supreme court administrative

office of the court, the district attorneys general conference and the juvenile and criminal court clerks, develop a plan and recommendations regarding requirements for extensive, detailed information regarding all reports of child maltreatment and the criminal, civil or administrative disposition of all allegations, by type, of child maltreatment and, by type, of disposition, including data regarding the victims and the perpetrators, to be collected by the department and submit the plan and recommendations to the judiciary committee of the senate and the civil justice committee of the house of representatives. Any child-specific information shall be confidential, except as otherwise provided by statute;

**(16)** Promote collaboration and accountability among local, public, and private programs to improve the lives of children and families, including continuing accreditation with the Council on Accreditation for Children and Family Services, Inc. or its equivalent, to develop strategies consistent with best practice standards for delivery of services. If the department fails to maintain accreditation, a report shall be provided to the general assembly outlining the reasons the department is no longer accredited; and

**(17) (A)** Report to the governor, the chief clerk of the senate, and the chief clerk of the house of representatives on probation and juvenile justice evidence-based treatment services by January 31 of each year for the previous fiscal year;

**(B)** Such report shall contain the following:

**(i)** Probation information:

**(a)** The number of children served by state probation;

**(b)** The number of children served by county probation as reported to the department in § 37-1-506(b);

**(c)** The average daily cost per child served by state probation;

**(ii)** Custodial information:

**(a)** The total number of children in juvenile justice placements;

**(b)** The number of children placed in youth development centers;

**(c)** The number of children placed in community placements;

**(d)** The average daily cost per child placed in a community placement; and

**(e)** The average daily cost per child placed in a youth development center;

**(iii)** Recidivism and system penetration information:

**(a)** The number of children receiving probation services who entered state custody;

**(b)** The recidivism rate for children receiving state probation services;

**(c)** The recidivism rate for children receiving county probation services;

**(d)** The recidivism rate for children not receiving probation services; and

**(e)** The recidivism rate for children receiving any probation services; and

**(iv)** Evidence-based services information:

**(a)** The number of children receiving evidence-based treatment services;

**(b)** The percentage of treatment services that are evidence-based;

**(c)** The number of children receiving prevention services;

**(d)** The number of children receiving evidence-based prevention services; and

**(e)** A list of juvenile courts receiving prevention grants or other prevention funding from the department, the amount of funding received, and the percentage of funding being used for evidence-based prevention services.

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# 2010 Tennessee Code

## Title 37 - Juveniles

### Chapter 5 - Department of Children's Services

#### Part 1 - General Provisions

### 37-5-106 - Powers of the department.

#### **37-5-106. Powers of the department.**

**(a)** The department has the following powers:

**(1)** Administer, develop or oversee programs, or any of these things including, but not limited to, state children's services agencies, except those operated by the department of mental health and developmental disabilities, assessment services, probation services, aftercare supervision services, child protective services and other services as required by law or as otherwise reasonably necessary for unruly, delinquent, dependent and neglected children, and their respective families, as well as children who are at imminent risk and in need of services to prevent entry into state custody, who are in state custody pending family reunification or other permanent placement, or as otherwise may be required for such children and their families pursuant to state law; provided, however, that such administration shall be consistent with and subject to licensing or approval authority of any other state agency that has responsibility for licensing or approval of any portion of program services or facilities provided by the department. Nothing herein shall preclude the service of at risk children by the department of mental health and developmental

disabilities who are classified as seriously emotionally disturbed and for whom that department has primary responsibility;

**(2)** Provide services as required by law to children committed to its custody pursuant to the provisions of titles 33, 34, 37 or 39, or provide services to children who are in need of services as required or permitted by law under the provisions of the Interstate Compact on the Placement of Juveniles in §§ 37-4-101 37-4-106, the Interstate Compact on the Placement of Children in §§ 37-4-201 37-4-207, or who are committed to the department by any order of the courts as a result of a divorce or adoption or guardianship proceeding;

**(3) (A)** License or approve and supervise child care agencies, as defined in title 37, chapter 5, part 5, that are placed within the department's jurisdiction pursuant to law;

**(B)** License or approve and supervise all facilities that were previously operated by the department of youth development;

**(C)** License or approve and supervise any entity that provides services consistent with this chapter and the exceptions set forth therein;

**(4)** For the purposes of treatment, reunification and rehabilitation, allow delinquent children committed to the department's custody to make home visits to the natural parent(s), relatives or legal guardian. Such visits must be approved by the committing juvenile court, unless such court declines to exercise decision making in regard to home passes, in which case the commissioner has authority to grant passes without any further court approval or action;

**(5)** Receive and administer state funds appropriated for children being served by the department of children's services;

**(6)** Seek, apply for, receive and administer federal funds as well as any other grants or funds that can be used for children being served by the department of children's services;

**(7)** Administer the contractual obligations and functions and the funding arrangements for the department;

**(8)** Enter into contracts with the departments of human services, mental health and developmental disabilities, education and health, with agencies of such departments, or any other department or agency of state government, with private individuals and corporations, and with associations, organizations or any other entities, governmental or otherwise, for services that the department of children's services may deem necessary to

carry out the purposes of this title. Such services may include, but are not limited to, health, psychological, social, education, transportation, program evaluation, placement, detention, prevention, assessment and case management;

**(9)** Develop and maintain a system for the purpose of handling, coordinating, processing and disseminating the information generated by the department's activities and services;

**(10)** Provide appropriate training, either through the department or by contract, to individuals within the department and may provide training to those entities delivering services for the department of children's services. All child protective services workers must be trained in their legal duties to protect the constitutional and statutory rights of children and families from the initial time of contact, during the investigation, and through the treatment;

**(11)** Provide for all adoption services responsibilities as it may be required to perform pursuant to title 36, chapter 1, part 1, and for the operation of the putative father registry pursuant to § 36-2-318;

**(12)** Administer the Title IV-E Foster Care and Adoption Assistance Program established pursuant to the Social Security Act in 42 U.S.C. § 670, et seq., or any successor entitlements;

**(13)** Establish rules and regulations concerning the provision of financial assistance to persons who adopt a child who has special needs, is difficult to place because of physical handicap, mental or emotional condition, or other serious impediments to adoption;

**(14)** Administer the Interstate Compact on Adoption and Medical Assistance pursuant to title 36, chapter 1, part 2;

**(15) (A)** Establish, notwithstanding any law to the contrary, rules and regulations for charging fees for the department's preparation and presentation, for any purpose, of social reports of homes or the parent or parents or other persons, when ordered by the courts unless:

**(i)** The order is based upon a finding that the child or children who are the subjects of the order are victims of abuse or neglect;

**(ii)** The order is based upon a finding that the child or children who are the subjects of the order have been alleged in the proceedings to be victims of abuse or neglect;

or

**(iii)** The department has received a report of harm pursuant to § 37-1-403 or § 37-1-605, concerning the child or children who are the subjects of the order. The department may, for purposes of this section, disclose such fact to the court;

**(B)** Provide by rule or regulation that the parent or parents of the child or children or any person or persons legally responsible for the child or children or any other party to the case, as the court may determine, shall be assessed the costs of the social report. The costs shall not exceed the department's cost to provide the service;

**(C)** Provide by rule for waiver of costs for any person or persons who are indigent, as determined by the department;

**(D)** Costs of such reports shall be reported by the department to the court and such costs shall be assessed by the court as court costs, as determined by the court, against the parent or parents or other parties or person legally responsible for the child or children and such costs shall be enforced accordingly by the court;

**(E)** Such costs shall be paid by the court clerk to the department, and the funds received by the department shall be deposited to the state treasury pursuant to § 9-4-301;

**(16)** Establish by policy, rule or regulation appropriate and necessary guidelines for consent to health care treatment for children in state custody or who are being served by the department;

**(17)** The department may acquire, hold or alienate property or leaseholds necessary or desirable for the performance of any of its functions that are vested in it by law;

**(18) (A)** The department is specifically authorized to establish any programs for the use of volunteers who may be able to provide assistance to the department in any of the services that are vested in it by law or that it may provide as a necessary part of such services. To the extent funds are available, and if necessary and desirable, the department may reimburse such volunteers for actual travel or other reasonable expenses for their services. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter. Meals may be furnished without charge at department facilities if the scheduled volunteer assignment extends over an established meal period. The department may use any funds available, including federal,

state or local funds or private donations, that it has for any expenses associated with these programs;

**(B)** Any volunteers who are registered by the department with the board of claims shall be accorded the same protections, legal representation authorization and immunities as state employees pursuant to § 8-42-101, et seq., and § 9-8-307 for civil or criminal actions brought against them within the scope and course of their activities in such volunteer programs; provided, however, that they shall not be covered by workers' compensation pursuant to § 9-8-307; and

**(C)** Volunteers may use state vehicles when their assignments so require, subject to the approval of the department and in compliance with any policies or rules or regulations that may be promulgated by the department;

**(19)** Administer and fully implement the multi-level response system for children and families, compiled in part 6 of this chapter, including making such contracts as may be necessary to carry out the evaluations called for in that part;

**(20)** Review the status of any person who has reached eighteen (18) years of age who was in the legal custody of the department and whose last commitment was based on an adjudication of dependent and neglected, unruly or in need of services pursuant to § 37-1-175, to determine if the person should receive services from the department in order to complete high school or other educational training or for the purpose of receiving other services. The department may provide services to the person who chooses to receive services from the department on a voluntary basis, subject to funding availability, budgetary constraints and compliance with department policy; and

**(21)** Review the status of any person who has reached nineteen (19) years of age who was in the legal custody of the department and whose last commitment was based on an adjudication of delinquency to determine if the person should receive services from the department in order to complete high school or other educational training or for the purpose of receiving other services. The department may continue to provide services to the person who chooses to receive services from the department on a voluntary basis, subject to funding availability, budgetary constraints and compliance with department policy.

**(b)** The attorney general and reporter shall, upon request, advise the department on matters of law.

[Acts 1996, ch. 1079, § 7; 2000, ch. 947, § 6; 2000, ch. 981, §§ 51, 60; 2003, ch. 355, § 24; 2004, ch. 740, § 1; 2005, ch. 391, § 12; 2008, ch. 906, § 4.]

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**Administrative Policies and Procedures: 1.3**

<b>Subject:</b>	<b>Continuous Quality Improvement: Communication, Meetings, Information Sharing, Policy Development and Review</b>
<b>Authority:</b>	TCA 37-5-105 (3); 37-5-106; 37-5-112; 37-5-128
<b>Standards:</b>	<b>DCS Practice Standards:</b> 2-100A, 2-206, 8-306; <b>COA:</b> AM 6, 7
<b>Application:</b>	To All Department of Children's Services Employees and Contract Provider Employees
<b>Policy Statement:</b>	
<p>The Department of Children's Services (DCS) shall promote an environment that encourages open communications, information sharing and team building among all employees and shall establish a formal, centralized system of Continuous Quality Improvement for facilitating communication within DCS. DCS employees at all levels shall have timely access to information related to the mission, vision and values, guiding principles, professional practice standards, goals, policies and procedures, other practice-related documents and processes of the department resulting in positive outcomes for children, youth and families.</p>	
<b>Purpose:</b>	
<p>DCS establishes and maintains a Continuous Quality Improvement Program to ensure regular channels of communication that are necessary for delegating authority, assigning responsibility, supervising work, coordinating efforts and complying with standards of professional practice.</p>	
<b>Procedures:</b>	
<b>A. Continuous Quality Improvement (CQI)</b>	<ol style="list-style-type: none"> <li>1. The Office of Continuous Quality Improvement is organized under the direction of the Assistant Commissioner for the Office of Continuous Quality Improvement. The Division of Performance and Quality Improvement is responsible for effective implementation of a collaborative statewide CQI program.</li> <li>2. The department establishes written and consistent CQI standards, practices and requirements within the <a href="#"><u>Performance and Quality Improvement Program Manual</u></a>.</li> <li>3. The Department applies the CQI process consistently across the State with a designated CQI Coordinator located in Central Office, each region and Youth Development Center (YDC).</li> <li>4. All staff participates in the CQI process through Unit staff meetings and CQI workgroups in which all staff have an opportunity to participate.</li> <li>5. CQI workgroups utilize agency and other data available whenever engaging in problem solving or engaging in discussions regarding outcomes for children and</li> </ol>

	<p>families.</p> <p>6. All Central Office Deputy Commissioners, Assistant Commissioners, Executive Directors and Directors, Regional Administrators, Youth Development Center Superintendents, Supervisors and Managers or their designees ensure meetings are scheduled and held as often as necessary with applicable employees and relevant community partners to revisit the department’s vision, mission, values and goals, explore problem areas, engage in quality improvement activities and to facilitate communication, information sharing and team decision-making.</p> <p>7. Regular agency meetings, such as staff meetings and routine CQI meetings should be held monthly when appropriate, but no less often than quarterly.</p> <p>8. A schedule for regular meetings is established so that employees are aware when meetings will be held so they can arrange their schedules and appointments.</p> <p>9. <b><u>Documentation and Distribution of Meeting Minutes</u></b></p> <p>a) All meeting minutes are:</p> <ul style="list-style-type: none"> <li>◆ Documented appropriately and kept up-to-date</li> <li>◆ Distributed timely, within five (5) business days of the meeting</li> <li>◆ Maintained on file for review for five (5) years</li> <li>◆ Meeting minutes are documented on form <b>CS-0987, Meeting Minutes</b>.</li> </ul> <p>b) For the <u>purposes of cross-functionality</u> and <u>continuous quality improvement</u>, all agency meeting minutes are maintained on the agency shared drive.</p> <p>c) Executive Directors and/or Central Office Directors or their designees are responsible for distributing regional/field/facility/contract provider meeting minutes to designated Program Supervisors/Managers to facilitate communication, and to enhance policy development, policy review and technical assistance as outlined in the DCS <b><u>Protocol for Communication of Policies and Procedures and Practice-Related Documents: Responsibilities of Managers and Supervisors</u></b>.</p>
<p><b>B. Policy development, review and communication</b></p>	<p>1. DCS policies and procedures are developed or revised when there is a need to <u>regulate</u>, <u>direct</u>, or <u>inform</u> and to guide DCS practices, operations and services to ensure compliance with applicable State and Federal Rules and Laws, Best Practice Standards, judicial mandates and managerial decisions and directives. (Refer to the DCS <b><u>Manual for Developing and Maintaining Policies and Procedures</u></b>.)</p> <p>2. Whenever possible and appropriate, policies are written or revised in the context of a collaborative CQI meeting with all key stakeholders present to ensure adequate input is received during development.</p> <p>3. A comprehensive review of all departmental policies and procedures and related documents is performed at least annually, or as prescribed by DCS Management.</p> <p>4. When new/revised policies and procedures, protocols, manuals or other</p>

	<p>practice-related documents are implemented, Managers and Supervisors or their designees must provide instruction, review and/or training on policies and documents that are relevant to an employee’s position and/or job duties.</p> <p>5. Policy review, instruction and/or training may be accomplished through a formalized communication process (e.g., <i>meetings, on-the-job training, video conferences, computer-based training, mentoring with other employees, etc, or a combination of these examples</i>). Review DCS <a href="#"><u>Protocol for Communication of Policies and Procedures and Practice-Related Documents: Responsibilities of Managers and Supervisors</u></a></p> <p>6. All DCS offices, facilities and contract provider locations ensure employees have access to all applicable DCS policies and procedures, manuals, protocols, work aids or other practice-related documents.</p> <p>7. DCS policies and procedures are reviewed and approved by the appropriate program Deputy Commissioner, Assistant Commissioner, Executive Director, Director, Legal Counsel and official approval (by signature) of the Commissioner.</p>
<b>C. Local procedures</b>	<p>1. Local procedures may be written by DCS regions/facilities when an official DCS policy does not cover a subject or procedure that is <b>unique</b> to the particular region/ facility/office, or when there is a need to <b>expand</b> procedures for the region/facility/office.</p> <p>2. Refer to the DCS <a href="#"><u>Manual for Developing and Maintaining Policies and Procedures</u></a>, <i>Local Procedures</i> section for additional information and instructions on formulating local procedures.</p> <p>3. All local procedures are documented on form <a href="#"><u>CS-0251, Local Administrative Procedures</u></a>.</p>

<b>Forms:</b>	<p><a href="#"><u>CS-0251, Local Administrative Procedures</u></a></p> <p><a href="#"><u>CS-0479, Acknowledgement/Verification of Policy Review and Other Documents</u></a></p> <p><a href="#"><u>CS-0724, Employee Monthly Training Roster</u></a></p> <p><a href="#"><u>CS-0987, Meeting Minutes</u></a></p>
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<b>Collateral documents:</b>	<p><a href="#"><u>Protocol for Communication of Policies and Procedures and Practice-Related Documents: Responsibilities of Managers and Supervisors</u></a></p> <p><a href="#"><u>Manual for Developing Policies and Procedures</u></a></p> <p><a href="#"><u>Performance and Quality Improvement Program Manual</u></a></p>
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<b>Glossary:</b>	
<b>Term</b>	<b>Definition</b>
<b>Continuous Quality Improvement (CQI):</b>	The complete process of identifying, describing, and analyzing strengths and problems and then testing, implementing, learning from, and revising solutions. It relies on an organizational culture that is proactive and supports continuous learning. CQI is firmly grounded in the overall mission, vision, and values of DCS.