

**STATE OF NEW JERSEY**  
**DEPARTMENT OF CHILDREN AND FAMILIES**  
**NOTICE OF RULE WAIVER/MODIFICATION/SUSPENSION**  
**PURSUANT TO EXECUTIVE ORDER NO. 103 (MURPHY)(MARCH 9, 2020)**  
**COVID-19 STATE OF EMERGENCY**

Temporary Suspension and Rule Modification adopted by Christine Norbut Beyer, Commissioner, Department of Children and Families

Date: December 14, 2020

Authority: N.J.S.A. App. A:9-45 & App. A:9-47; Executive Order No. 103 (Murphy)(“EO 103”)

Effective Date: December 14, 2020

Expiration Date: Concurrent with expiration of EO 103

This is an emergency adoption of a temporary rule suspension and modification of the Department’s rules at N.J.A.C. 3A:12-1.1 et seq.; 3A:12-2.1; and 3A:15-1.1 et seq., which supersedes all prior temporary rule waivers/modifications/suspensions regarding these regulatory sections. Section 6 of EO 103, issued in response to the COVID-19 pandemic, authorizes agency heads to waive/suspend/modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Pursuant to that authority, and with the approval of the Governor and in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health, the Department of Children and Families is waiving or modifying certain rules as follows:

In order to: (1) facilitate social distancing and other virus mitigation strategies while continuing essential functions to ensure the safety of children and families; and (2) create flexibility to add or realign staff to address virus related personnel shortages, the Department is taking the following action:

The requirement in N.J.A.C. 3A:12-1.8 that all participants be asked to sign the case plan is suspended in contemplation of all or most case plan meetings being conducted virtually.

The requirements for visitation between caseworkers and client families in N.J.A.C. 3A:12-2.6, 2.7, 2.8, 2.9, and 2.11 are being modified to allow caseworker visits with clients to occur by video conference or telephone when in-person visitation cannot be done safely, but also requires the Division to consider the level of risk in determining whether in-person visits with clients are necessary.

N.J.A.C. 3A:12-2.10, which requires a caseworker visit, in person, within 10 days of a worker assigned to a case is being suspended in order to allow for a teamed approach to case management.

The text of the modified regulations are as follows, with insertions indicated in **bold** print and deletions from existing regulatory text indicated in [brackets]:

§ 3A:12-1.8 Notice of the case plan

(a) [The Division representative shall ask each person who participated in developing the case plan to sign the case plan to indicate his or her participation in developing the case plan.]

[b)] The Division representative shall give a copy of the Case Plan Family Agreement to each person who participates in the development of [or signs] the case plan, including the out-of-home placement provider, and to each parent who declines to participate in [or sign]the case plan. The Case Plan Family Agreement is a condensed version of the case plan which captures the outcome of the family planning meeting and the family's plan for change, based on the family's strengths.

§ 3A:12-2.6 Establishing a schedule for [in-person] visits

(a)-(b) No change.

(c) Each established schedule for [in-person] visits, **conducted in-person, telephonically, or by video conference**, shall fall between a range of once every week to monthly[, except as provided in (d) and (f) below].

[(d) The local office manager may approve an in-person visitation schedule of once every three months for a child, parent or out-of-home placement provider, when a child resides in an out-of-State treatment-based out-of-home placement program further than 50 miles of the New Jersey State border that precludes in-person visitation more frequently than once every three months.]

[(e) For a New Jersey child who resides with his or her resource family in another state, where the distance from New Jersey precludes in-person visitation more frequently than once every six months, the local office manager may approve a yearly in-person visitation schedule of two in-person visits by the Division representative and two in-person visits by an agency pursuant to the Interstate Compact on the Placement of Children, N.J.S.A. 9:23-5 et seq. The shared in-person visitation schedule between New Jersey and the receiving state shall be included in documentation of the visitation schedule as approved by the local office manager.]

[(f) The local office manager may approve:

1. An in-person visitation schedule of once every three months for a parent when the parent lives out-of-State at a distance, which precludes more frequent in-person visitation and the case plan indicates a continuing need for interaction between the parent and the Division representative; or

2. No in-person visitation schedule for a parent who lives out-of-State at a distance which precludes routine in-person visitation, the parent is unwilling to schedule regular in-person visitation and the case plan does not indicate a continuing need for interaction between the parent and the Division representative.]

[(g) Whenever an in-person visitation schedule of once every three months has been approved under the provision of (d) above, the Division representative shall maintain monthly telephone contact between visits with all parties, as well as with collateral individuals, for example, school personnel.]

[(h)] (d) The Division representative shall advise each child, his or her parent, and the out-of-home placement provider of the schedule for in-person visits and any changes in the schedule.

#### § 3A:12-2.7 [In-person] visitation when a child is placed out of his or her own home

- (a) In addition to the visits made in accordance with the provisions of N.J.A.C. 3A:12-2.6, Establishing a schedule for [in-person] visits, **conducted in-person, telephonically, or by video conference**, whenever a child is placed out of his or her own home:

1. An initial [in-person] visit with the child, the prior custodial parent and the out-of-home placement provider shall be made by the Division representative within five working days following the child's placement out of his or her own home;

2. The visit with the child shall occur in the home of the out-of-home placement provider;]

3. The in-person visit with the prior custodial parent may occur in either the parent's home, the office or other mutually-agreed upon location;]

- 4.]**2.** During the first two months of an initial or a subsequent placement, each child shall receive at least two [in-person] visits per month[with at least one visit occurring in the home of the out-of-home placement provider and at least one visit per month thereafter, occurring in the home of the out-of home placement provider]; and

- 5.] **3.** Each parent of a child with a case goal of reunification shall receive at least two [in-person] visits per month, and each parent of a child with another case goal shall receive at least one visit per month unless parental rights have been terminated.

#### § 3A:12-2.8 Change in placement

Following a change in the child's out-of-home placement, the Division representative shall have [an in-person] **a** visit within five working days, **conducted in-person, telephonically, or by video conference -**, with the child and new out-of-home placement provider.

§ 3A:12-2.9 Placement in a treatment-based out-of-home placement program further than 50 miles from the New Jersey State border

(a) No Change.

[(b) When a child is placed in a treatment-based out-of-home placement program further than 50 miles from the New Jersey State border, the Division representative shall visit the child and attend the conference to develop the child's treatment plan within 30 calendar days of placement.]

§ 3A:12-2.10 Initial in-person visits


(a) In addition to the standards set by N.J.A.C. 3A:12-2.7, 2.8, and 2.9, the Division representative shall make a visit, in-person, virtually or telephonically, with the child, the parent, and the out-of-home placement provider, if applicable, in the child's residence within 10 working days when:

1. A Division representative is assigned to a newly-opened case; or
2. The case is transferred from one Division representative to another. In this instance, the newly-assigned Division representative shall make the visit, in person, virtually or telephonically.

§ 3A:12-[2.11]**2.10** [In-person] visitation with a child alone

During any [in-person] visitation, a Division representative may interview a child receiving services from the Division alone to allow the child to speak freely.

I find that suspension and modification of the rules above is necessary because enforcement of the existing rules would be detrimental to the public welfare during this emergency. This waiver/modification/suspension supersedes the previous waiver/modification/suspension dated March 22, 2020, as modified on April 22, 2020.

  
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Date: December 14, 2020

Christine Norbut Beyer, MSW  
Commissioner